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THE SECESSION OF THE STATES, 1861

The royal wolves of Europe attempting to scatter the American sheep.

THE STORY OF THE NATIONS

THE UNITED STATES OF AMERICA

BY

EDWIN ERLE SPARKS, PH. D.

OF THE UNIVERSITY OF CHICAGO

AUTHOR OF "THE EXPANSION OF THE AMERICAN PEOPLE," "THE MEN WHO MADE THE NATION," "FORMATIVE EVENTS IN AMERICAN DIPLOMACY," ETC.

IN TWO PARTS

PART II.

1830–1900

G. P. PUTNAM'S SONS

NEW YORK AND LONDON

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THE UNITED STATES OF AMERICA

CHAPTER I

FORTY YEARS LATER

THE political revolt which brought Andrew Jackson to the presidential chair was almost contemporaneous with the close of the first forty years of national government under the Constitution. Forty years had wrought a marvellous change in the material development of the nation and had greatly increased the happiness of the individual. The principal changes had been along the lines of increased population and wealth, the growth of arts and literature, and the multiplication of inventions and explorations. The total population was almost four times that of 1789. The national domain had been more than doubled. Eleven States had been added to the original thirteen. The rank of the leading States when the first census was taken, viz., Virginia, Pennsylvania, North Carolina, Massachusetts,

and New York had been changed by the vagarish people to New York, Pennsylvania, Virginia, Ohio, and North Carolina.

It is possible to draw a line about the domain of the Republic in 1830 and about its fully settled portions, but futile to attempt to place bounds to the interests entrusted to Federal control within these vast limits. The national explorations of Lewis and Clark, of Pike, and of Long, had roughly defined the region between the Mississippi and the Rockies. Over the northern part of this unsettled tract, fearless and lawless fur traders roamed. Here they fought and here they revelled, securing by individual action a fair portion of the peltry which American organised companies had thus far been unable to wrest from their puissant British rival. John Jacob Astor still dreamed of a revival of the American Fur Company, with a strength enabling it to drive the Hudson Bay Company across the boundary line and render effective the law of 1819, which forbade foreigners to take fur-bearing animals on American soil. His chief representative, MacKenzie, "the king of the Missouri," had built Fort Union at the junction of the Yellowstone with the Missouri. Here he entertained titled visitors and lorded it over the cis-Rocky region. American explorers had not been idle. In 1832, Captain Bonneville went through the South Pass, marking out the later Oregon trail, and, with a few miles of deviation, the line of the Union Pacific Railroad. In the south-west, a trail from the western frontier of Missouri, near Fort Osage, to San Fernando de Taos,

near Santa Fé (now New Mexico) used as early as 1760, was now surveyed and marked by United States commissioners. Over this "Santa Fé Trail" goods were sent to the Spanish Mexicos to the value of at least two hundred thousand dollars annually. United States troops were habitually sent out during the summer months from Fort Jefferson near St. Louis to guard the waggon trains along the trail. Fort Leavenworth (now eastern Kansas) was the westernmost military station for many years.

Following close in the van of the army and trading posts, but far in the rear of explorers and trappers, came the advance guard of civilisation. Restless hunters, land surveyors, shrewd traders, and small farmers led the way in the march across the continent. Protected by Federal troops, these pioneers did not need the individual skill and daring required by Boone and his companions; but the courage to endure privation, illness, and even death was fully as requisite for the men and women who passed the Mississippi. Like some viscous substance, the mass of people flowed onward, using the central route of the Cumberland Road and the Ohio River, or the supplementary routes of the Great Lakes on the north and the Cumberland on the south. Civilisation advanced at an average rate of more than twenty miles each year. Thrusting long arms of population up the streams and tributaries lying in the direction of progress, skirting lakes, threading valleys, the frontier had advanced in some cases not less than seven hundred miles in the forty years.

The technical frontier in 1830, a strip containing

from six to eight people to the square mile, began at Detroit, Michigan, passed through middle Indiana and Illinois, to Kansas City, Missouri. From this point it retreated to the State of Mississippi, and thence southward on the west bank of the Mississippi River to the Gulf of Mexico. Long branches of people extended from the main body up the Arkansas and Red Rivers. Roughly speaking, the settled portions of the United States occupied a quadrangle, bounded on the east by the Atlantic, on the south by the Gulf, on the west by the Mississippi, and on the north by the St. Lawrence, Lake Erie, and the lower part of the Ohio River. It embraced 725,606 square miles, nearly one-sixth of which was still occupied by Indians of the Southern States. Broad reaches of settled country extended into the Floridas, encompassing St. Augustine, and touching the Gulf coast about the mouth of the Appalachicola River and Mobile Bay.

Eleven States had been created from what was the wild lands beyond the Alleghenies forty years before. They contained about the same number of people that resided in the thirteen States at the beginning of the Union. The original thirteen east of the mountains had increased to sixteen and contained nearly three times as many people as lived to the west of the mountains. In this reckoning, Alabama and the States to the westward are considered as beyond the Alleghenies. In rank of States by population, the old States of New York, Pennsylvania, and Virginia led, but Ohio was fourth, Tennessee sixth, and Kentucky seventh. Although

still outnumbered by the Atlantic States nearly three to one, the Valley and Gulf States showed an increase which would soon equalise the sections. Considering density of population, Indiana had increased between 1800 and 1830 from one-half per cent. to nine per cent., and Kentucky from two to seventeen per cent., while Massachusetts grew from fifty-two to seventy-five per cent., and Virginia from thirteen to eighteen per cent. This showed that in thirty years Massachusetts had increased by about one-half her number, and Indiana by eighteen times her number.

The people were still country dwellers for the most part. The modern problems of cities were unknown. The proportion of city residents had scarcely doubled in the forty years. In 1790, the six largest cities in rank of population had been: Philadelphia, New York, Boston, Charleston, Baltimore, and Providence. In 1830, the rank was: New York, Philadelphia, Baltimore, Boston, New Orleans, and Charleston. Of these, only New Orleans could be called a trans-Allegheny city, although not strictly a Western city. Both New York and Philadelphia had passed the one-hundred-thousand mark, a larger number than had seven of the smaller States individually at the beginning of the constitutional government. Sixteen cities could be counted having a population of more than ten thousand, while numerous villages of a thousand or more had sprung up where not even a house had stood forty years before.

The cities were beginning to exhibit certain advantages of residence over the country. In 1820,

illuminating gas, manufactured from coal and piped under ground, was used to light bridges and streets in the larger cities. A few daring persons employed it in their houses. The oil lamp, fitted with an Argand burner, wick, and glass chimney, was the dependence of the city, as the tallow candle was of the country. Modern lamps and petroleum were twenty years in the future. It was not until 1838, that phosphorus friction matches, called "lucifers" and "loco-focos," began to be introduced into the cities. The country people were accustomed to "bank" their fires in the fireplace, and thus save the use of flint and steel. The increase in the size of cities caused an extension of their limits, which demanded better means of interurban communication. About 1830, a line of city stages, whose name, "omnibus," at first puzzled those ignorant of the Latin language, was placed upon the streets of New York. The streets of the city were too rough for the comfort of the passengers, and the following spring parallel iron rails were laid in the present Fourth Avenue, on which three coaches were drawn by two horses at a trial. This meant a saving in cost of operation as well as a gain in capacity and in the comfort of patrons. These "Quaker coaches" were suspended on short leather braces, being a combination of a modern omnibus, a rockaway, and an English railway coach. Each car contained three compartments, seating ten people each, while two seats on the roof accommodated ten more passengers. The constable and the watchman were inadequate to a large city, and a police force was devised, based

BROADWAY, NEW YORK CITY, IN 1835

upon the military system, to patrol the streets by day and night.

The growth of cities was due to the location in them of numerous manufacturing enterprises which had sprung up since the period of commercial isolation began. Water-power magnetically drew together the elements of a city. At the falls of the Merrimac in northern Massachusetts, mills were established in 1823, which became the town of Lowell in 1826, and a city of over six thousand by 1830. Cohoes, in New York, and Fall River, in Massachusetts, are examples of the same kind.

As coal began to be employed to generate power, cities arose near the great supplies of coal. Pittsburg, in Pennsylvania, increased her population eightfold between 1800 and 1810. The existence of coal in North America had been noted by Father Hennepin. It had been mined in Virginia since 1750. Five years later it was found in Ohio. Lewis and Clark noted its presence along the Missouri, as did Pike in southern Kansas. Early in the century, coal was floated down the Pennsylvania streams, but could not reach distant markets. The Dismal Swamp Canal was begun for the purpose of transporting Virginia coal. In 1818, the opening of the small Schuylkill Canal brought anthracite coal in arks to New York and to Philadelphia. Ten years later, portions of the Pennsylvania State Canal were ready for use, and the first bituminous coal was shipped from the vast deposits in that State to the Atlantic coast cities. Transportation of a steam-making product to any portion of the land meant a gradual

shifting of industrial centres. Water-power was no longer essential. Manufacturers would in time install their plants in cities, where labour was abundant, a market at hand, and to which coal could be easily transported. The factory system would in this way replace individual craftsmen.

Manufacturing plants not only suggested the possibility of turning out various products, but created a demand for better methods and improved machinery. Transporting both raw material and finished product to the distant parts now occupied by the spreading population required the solution of many problems of transportation. Even the farmer, remote from centres of population, felt the burden of providing food for the increasing numbers, and cast about for better machinery to do his work. The number of persons engaged in agriculture was so much increased that the demand for improved machinery was sufficiently large to stimulate not only inventors, but capital as well.

Hand labour had long since been replaced by water- and steam-power in the factories, and, for this reason, homespun had given way to factory-made goods. Shoes, hats, and clothing were still made in small shops to individual measure, but cloth and cotton goods came from the large mills. In 1831, the cotton industry occupied 801 factories, with 1,246,703 spindles, representing $40,612,984 invested capital. Over three-fourths of these cotton factories were located in the Northern States. For iron, the smiths must still depend upon the small furnaces, scattered all over the land where deposits

of iron in sufficient quantities could be found. Pennsylvania was the chief source. Pittsburg was giving some evidence of future tendencies in the eight rolling mills, nine foundries, and two steel mills to be found in her vicinity. In 1830, charcoal instead of coal was still employed in the furnaces, limiting the output by its laborious process. However, even a small amount of steel made possible the manufacture of edged tools, such as axes, saws, and planes, articles which had previously been imported. The hardware trade, as distinguished from woodenware and fabrics, began to be recognised.

Since the days of antiquity, the farmer had been accustomed to use a flail in beating his grain from the head, or to trample it out by driving animals over the threshing-floor. It was a laborious process, but the long winters afforded time. Threshing-machines, known in Europe for nearly fifty years, did not become practical and cheap enough to be in general use in America until about 1830. At the same time, a young Virginia inventor named McCormick secured a patent on an improved plough, one of many attempts to meet the demands of the farmer. Of much greater value was his patent, issued four years later, for a machine which reaped the grain in the field. This was a labour requiring speed in the short fruition time. The farmer was governed in the amount of his planting by his ability to reap. The invention of the reaper and mower increased this capacity manyfold, and made a corresponding increase in the amount of land placed under cultivation. Some investigators claim that

the average rate of advance of civilisation across the continent was increased to thirty miles annually by the influence of this invention. National defence was augmented at nearly the same time by the eccentric lathe of Thomas Blanchard, the early inventor of the tack-making machine. Octagonal gunbarrels, formerly fashioned by hand, were now turned out in rapid succession upon this lathe. Samuel Colt was at this time working upon a percussion cap to take the place of the flint and steel, although his patent was not secured until 1835.

Publicity of these needs and inventions was given through the newspapers. A realisation of the business aspects of the press had transferred the headquarters of the newspapers to the commercial centres, and had subordinated their political activities to business considerations. Upwards of one hundred daily newspapers had been established and nearly ten times that number of weekly editions. The *Journal of Commerce* and the *Courier and Enquirer* had laid the foundation for the supremacy of the New York press. The latter had a daily circulation of 3500 copies, considered marvellous at that time. Its editor sent dispatch boats to sea to intercept incoming vessels for foreign news, and in 1833 established a pony express between New York and Philadelphia to secure news in advance of his rivals. During the same year, Horace Greeley made an unsuccessful attempt to launch a New York newspaper. Two years later, James Gordon Bennett founded the *New York Herald*, to be sold for one penny a copy.

Eighty years had passed since the famous Stamp Act of Parliament had required a stamp to be placed upon every American newspaper because it was a luxury. It was now becoming a necessity, within the reach of every inhabitant. The increased number of presses brought a stimulus both to the reading public and to writers. Opportunity was now offered to authors of getting their productions in print and of gaining some compensation under the protection of a national copyright law. Yet it was only the dawn of the day of books. Oratory and song were still the agencies of political campaigns. The selfishness of individual books and the morning newspaper had not yet replaced the massing of people to listen to public addresses or debate. This middle period marked the high tide of oratory. Webster, Clay, Calhoun, Hayne, Everett, Choate, and countless lesser magnets drew vast audiences to hear discourses on subjects political, or in the domain of letters.

Irving had done his most popular work and gone into foreign service. After producing ten novels, Cooper had entered that period of malcontent with America which characterised his return from Europe. Bryant, reluctantly abandoning the attempt to establish a literary journal in New York, had accepted a position on a daily newspaper. Although continuing to write at intervals, his best work was done. Poe had published a small volume of poems, and was awaiting a favourable opportunity. The Unitarian revolt against the Calvinistic doctrine had scarcely extended beyond New England, but in that

section it had created an intellectual awakening. Events were hastening a second revolt, which would produce the Transcendental school and give to the world the Cambridge and Concord groups, destined to make a lasting place in American letters.

Popular education was also being served by the development of the public-school system in the Northern States, by the inauguration of secondary private schools in the Southern States, and by the planting of scions of the sectarian colleges in the more recently peopled portions of the West. Education had occupied a large share of the attention of the leading men since the founding of the Republic. The obligation resting upon society, the Church, and the family in this particular was not only defined but accepted by public sentiment. The development of the American public-school system has closely paralleled the development of the American nation. Inaugurated upon the Atlantic plain, the public schoolhouse has advanced with the progress of the people across the continent. One of the first provisions in organising a Territory or State was for public education. Before 1830, permanent school funds had been provided by the States of Massachusetts, Connecticut, New York, New Hampshire, Maine, New Jersey, Delaware, Virginia, both Carolinas, Alabama, Florida, Georgia, Tennessee, Kentucky, and Louisiana. The endowments varied both in amount and in form. They embraced State lands, bank stock, and the proceeds from various kinds of special taxes. In the Southern States, these "literary funds" were given to charity schools; in the

Northern States they were used to support public schools.

The States carved out of the public domain, beginning with Ohio, had the benefit of the reservation of certain sections of land set aside for educational purposes by the National Government. Nearly five million acres had been granted for this object before 1830. Prevalent individualistic tendencies had inaugurated the independent "district" system of school control, which prevented co-operation, and left the poorer regions to suffer because of inadequate funds. It was 1840 before the efforts of Horace Mann and Henry Barnard for the centralisation of the school moneys under State control began to make headway. New York led the way in giving the State full control of school funds, instead of "farming" them out to sectarian use. The chief problem in early as in later times was the preparation and pay of the teacher. The average salary of a schoolmaster about 1830 was eleven dollars a month and that of a schoolmistress four dollars a month, each being "boarded 'round" among the patrons of the school without charge. The school session occupied but a few months of the year, the teacher being employed in other labours during the remainder of the time. Professional teachers were as yet unknown. Rev. James G. Carter, the "father of the normal school," organised in 1830 the American institute of instruction for the preparation of teachers. It was the greatest advance of the age in education.

Colleges were established by funds gained from

lotteries, by church contributions, and by the public land grants. Sixty-five of these institutions surviving to the present day were founded before 1830. The American Philosophical Society, the American Academy of Arts and Sciences, the Massachusetts Historical Society, the American Antiquarian Society, and the National Academy of Design were publishing the results of investigations along their several lines and encouraging further research. In 1829, James Smithson left a bequest for an American institution for the increase and diffusion of knowledge among men. Connecticut, New York, Pennsylvania, Kentucky, and Ohio had established State institutions for the education of the deaf and dumb, and in several cities schools had been opened for teaching certain occupations to the blind.

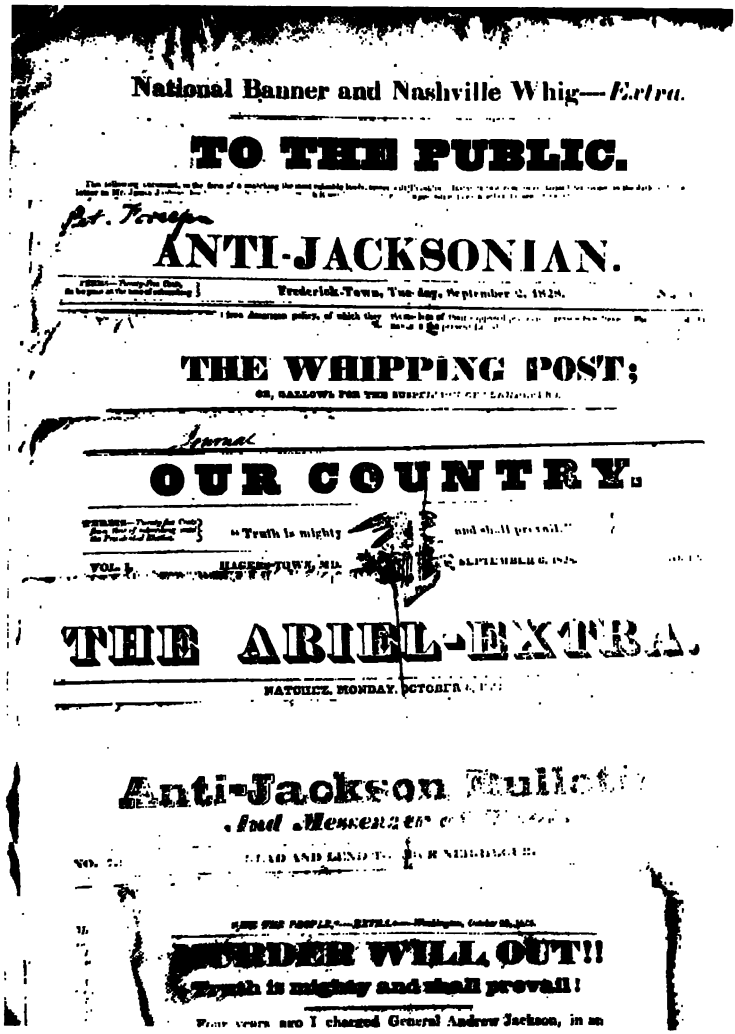
Information was disseminated through the widely extended mail service. There were more than a hundred post-offices now for every one that was in existence forty years before. The total length of post-roads had been multiplied seventeen times in the same period. For several years past the receipts of the post-office had exceeded its expenditures. New post-routes were being established at an average rate of near two hundred a year. Many of these passed through the older portions of the country as increasing population warranted. Others showed the advance of the people into what was recently the backwoods or the untenanted prairie. In 1830 the mail service had reached many villages in the Michigan Territory in the latitude of Detroit, had penetrated to Jacksonville, Florida, had touched

the Sabine River in Louisiana, and had extended up the Missouri River to Lexington. By act of Congress, mail could be carried on steamboats, or other vessels used as packets, as well as on horseback or by stage. The mail was carried from Washington to New Orleans by way of Louisville, Kentucky, in twelve days. On this route, a fast stage was used over the Cumberland Road as far as Wheeling, a steamboat between Cincinnati and Louisville, and a four-horse coach between Memphis and Nashville, the latter running three times a week. Passengers were carried on all mail coaches. The minimum rate of postage was six cents for fifteen miles, and increasing to twenty-five cents for four hundred miles or over. The post-offices were required to be kept open and an attendant to be present on all days when mails arrived or departed.

Prosperity marked both national and private finances. The national public debt had been reduced from one hundred and twenty-seven million dollars in 1816 to forty-eight millions in 1830. Nearly twelve millions of this would expire annually for the next few years and could easily be met from the income of the nation. The complete extinction of what the non-lending class considered a national burden it was hoped could be accomplished within a few years. The imports of the United States still exceeded the exports in value, but the difference was decreasing each year. The customs receipts had multiplied seven times since 1789. Two and a quarter million dollars were received in one year from public land sales. The stock which the National Government

owned in the second United States Bank, chartered in 1816, was yielding about $490,000 annually. After paying all expenses, the National Government had some twenty-five million dollars on hand for 1830. This was in strong contrast with the financial condition forty years before, when debts without prospect of payment and no sources of income characterised the national treasury. So prosperous was the Federal treasury that certain statesmen advocated dividing the surplus money among the States to avoid keeping too large a sum hoarded up and out of circulation. Others advocated apportioning the remaining public lands or their proceeds among the States or giving them to the people, thereby cutting off one source of the surplus and vastly increasing the productive utility of the domain. Rarely has a nation been so perplexed to find means to prevent itself from growing richer. Perhaps this may be a pleasant, or unpleasant, period to contemplate hereafter.

Still another suggestion for getting rid of the surplus was advanced: viz., a change in the tariff schedule which produced the enormous receipts from the custom-houses. But which class of goods should suffer such reduction could not be agreed upon. The manufacturers of the northern, middle, and western portions wanted a reduction on raw material. Wool, cotton, iron, hemp, and sugar were especially named. The producers of these materials protested. Builders of steam vessels wanted a reduction or a drawback on iron, hemp, flax, and copper-products which they required in



National Banner and Nashville Whig—*Extra.*

TO THE PUBLIC.

ANTI-JACKSONIAN.

Frederick-Town, Tuesday, September 2, 1828.

THE WHIPPING POST;

OUR COUNTRY.

"Truth is mighty and shall prevail."

VOL. I. HAGERS-TOWN, MD. SEPTEMBER 6, 1828.

THE ARIEL-EXTRA.

NATCHEZ, MONDAY, OCTOBER

Anti-Jackson Bulletin

And Messenger

MURDER WILL OUT!!

Truth is mighty and shall prevail!

Four years ago I charged General Andrew Jackson, in an

THE ADAMS-JACKSON CAMPAIGN OF 1828

Heads of campaign newspapers, illustrating the violence of the personal attacks upon each side.

large quantities. Owners of slaves wanted a lower tariff on the coarser kind of cloths used in making garments for these labourers. It was the old task of harmonising all parts of the Union and their diversified industries in a common tariff schedule. The share of money coming to the national treasury from the United States Bank was but a small part of the national income, yet a large number of people favoured the abolition of that institution on the expiration of its charter.

Upon many of these points, the members of the legislative department of the National Government showed a diversity of opinion. The two branches of Congress had increased numerically with the increase in number of States, but their prerogatives remained much the same as in the beginning. The influence of the Executive, on the contrary, had been augmented by the increasing numbers of his subordinates. To the four heads of departments in Washington's day had been added a Postmaster-General and a Secretary of the Navy. The "Cabinet" now numbered six. The custom-houses, the post-offices, the army, the navy, the bank, government contracts, and newspapers printing the laws opened a vast field for exerting executive influence and for creating an executive following. The New York customs office alone employed 175 men, and the small port of Norfolk, Virginia, forty-one more. The Tenure of Office act of 1820 had replaced the good-behaviour qualification, under which national offices had been held, by limiting the occupancy to the four years of a presidential term. This vicious

provision virtually vacated all the minor offices of the Government at each election, and made imperative the exercise of the presidential appointing power on an enormous scale. Instead of repealing the law and restoring the civil service to a merit basis, the common thought was to curb the appointing power of the President in some manner. A realisation of the former high ideal was nearly a half-century in the future.

Politics were almost exclusively local or personal in their aspects. Each leader was supported by a group of devoted friends. New York and Virginia still dominated national affairs. Political science meant the use of handbills, abundant abuse, "posting" an opponent, pulling noses, and the occasional application of the horsewhip. It was the crudest stage in party development. One must not expect to find Union-making according to any studied plan, but by the blundering process of every-day necessity.

CHAPTER II

UNION PROFIT-SHARING

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inside and out," future appropriation bills would read. No serious constitutional objection had been heard when Congress employed John Trumbull to paint a series of large canvases on historical subjects to be placed in the national Capitol. The only fear was that, like the family of the Vicar of Wakefield, the United States might have a picture so large that the house would not hold it. It was argued that the Federal Government had exclusive control over the District. This implied a power to build a capitol. Building a capitol implied the power to embellish it. Embellishment included paintings. In 1830, annual appropriations were being made for statuary and monuments for the same purpose. During the same year, an appropriation was granted the Columbian College, an institution which had no claim on the National Government other than that it was located in the District of Columbia. The reasoning was that education in the States was fostered by the proceeds of the public land sales and that a similar object might be accomplished within the District from the proceeds of the sale of city lots. But the appropriation in this instance was equivalent to a series of cash payments because the sale of lots would continue until the sum was realised. At this time, the Revolutionary pension list, originally in the hands of the several States, had risen to over a million dollars, while invalid pensioners added nearly two hundred thousand more. The widows and orphans of soldiers killed in the War of 1812 were also pensioned without hesitation.

If a donation of money was likely to be opposed by those who feared the affection of the people would be centralised in the benefit-conferring Union and consequently lost to its component parts, the advocates of a benefaction chose the public lands as a source of means rather than the public purse. The United States had never looked upon the lands as a permanent possession. It was not to be a landlord, but only a trustee. This was in accord with the promise made when the States were persuaded to yield the western lands constituting the first public domain. The only exceptions made were the salines, or salt-spring lands, and, at a later time, the mineral lands.

Near the sea, a supply of salt was always obtainable from the evaporation of the ocean water, but inland it was to be had only from salt springs, which were occasionally to be found. Salt was such an essential commodity that reservations of salines were ordered to be made by the various land ordinances and laws, not for the purposes of national profit, but as a protection of the people against a possible monopoly. In the thinly populated territories, the salines were regarded as public property, where any settler was at liberty to take his kettle and boil the water. The cutting of the adjacent timber led to abuse which the distant land office was powerless to correct. Consequently the practice was introduced of leasing the salines for a short term of years, the Federal Government receiving a toll of the output. The lessees were not infrequently government employees who sublet the wells to many operators,

resulting in a double profit and higher price. The salt due to the Government for rent was paid at the end of a year or season, throwing a large quantity of the commodity on the market at an unfavourable time of the year. As States were formed from the Territories, the Federal Government willingly presented its salines to them upon condition that the springs should never be sold, but remain for the use of the people. The experience of the States with this species of municipal ownership was not more pleasant than that of the Union. Private wells were opened, new fields discovered, and the prohibition against selling the salines was removed by Congress. It is interesting to note that not one of the present adequate sources of supply of salt was ever a national saline. The experience with the lead mines occupies a larger and later place in the history of the public land system, but does not vary materially in its conclusions. National ownership was not a success.

From the mineral lands the national treasury could not expect to reap as large pecuniary benefit as from the agricultural lands, because the former lay for the most part in the Mississippi valley and had been largely taken possession of by the French before the surrounding region came under the ownership of the United States. The adjustment of the mineral and other land claims inherited with the territorial acquisitions employed the attention of land agents, special commissioners, and courts for many years,. Local maps in districts where the French had settled along the Mississippi exhibit at the present day a strange

THE FRENCH LAND GRANTS OF ILLINOIS

A modern map showing the French common-land allotments surrounded by American rectangular surveys.

mingling of the two methods of survey. The French "common" land was incongruous with the American system. Eventually all tracts of this kind were divided and sold. In 1835, the city of St. Louis sold the two thousand acres of the old French "commons" and applied the money to street improvements and to education.

In lieu of his privileges in the "commons" of the different villages, each actual settler under the French régime in Illinois, who was the head of a family, was given four hundred acres of land by the United States Government. Mutual testimony was borne to prove these claims. Jean Baptiste Condain affirmed, for instance, that he saw Louis Seguin Jarrot planting corn and wheat in the L'Aigle valley twenty years before, and Jarrot was equally positive that Pierre Étienne Gouvreau operated a sugar camp and built a cabin on an adjacent tract. Peoria, in the present State of Illinois, had never been more than a French post on the Illinois route to the Lakes, yet, so late as 1820, seventy parcels of land were claimed in it by thirty-two different claimants. The many changes of ownership which Louisiana and the Floridas had undergone multiplied the land claims and increased their complexity in those parts. British, Spanish, and French claimants, varying from the Earl of Eglinton to Valere Bourque and Bruito Vasquez, besieged the land commissioners and demanded titles to their property. Many of the grants were defective. Over two thousand titles to land in and about St. Louis were invalidated at one time by the land commissioners. Among them was

one held by Daniel Boone, rejected because he had not dwelt upon the land he claimed.

The hopes entertained by Hamilton and early statesmen that the public land would be a means of national wealth was never realised, partly because, as just indicated, much of the land was occupied before coming under national control. Added to this source of loss was the credit method of sale, by which injudicious men were tempted to purchase more land than they could pay for. It so chanced in 1820 that public lands to the amount of more than $44,000,000 had been sold, of which sum almost precisely one-half was still due. Part of this balance represented payments not yet matured, but a goodly share was made up of hopeless debtors. Congress passed one relief measure after another for these unfortunates. In 1830, it was proposed to celebrate the coming cancellation of the national public debt by a release of all obligations of national debtors.

Various plans for individual benefit from this national treasure house found their way in petitions to Congress. "The New England Emigration Society," embracing more than one hundred members, wanted a tract anywhere south of the forty-fifth parallel, north latitude, declaring themselves "not actuated by motives of disaffection to this section of their native land; but an uncontrollable course of events has deprived many of the accustomed means of a livelihood, and while in the vigour of life, they cannot consent to remain with their families a dead weight upon society." At another time, the "Coffee Land Association" wanted land in Florida

on which to introduce the cultivation of coffee, cocoa, and tropical fruits. Promoters in Indiana begged for manufacturing sites. The original States demanded a share of the lands for educational purposes equivalent to that given to new States.

Although Congress had not in this "middle period" reached the lavishness which characterised its management of the public lands after 1861, public opinion was beginning to think of the public domain as an enterprise in whose profits the people were entitled to share. Already precedents had been established for many species of benefaction. The bounty lands granted to the Revolutionary soldiers caused similar action to be taken for the volunteers in the War of 1812, although not involving so large a portion of the domain. Lands had been voted by Congress to refugees from Canada, who had fled during the Revolution because they expressed sympathy with the rebellious colonies, and to those who bore arms in the American cause. Similar relief measures were passed for those Canadian refugees after the War of 1812 who had not been succoured by the State of New York. Lands had been granted to societies for spreading the gospel among the heathen, for introducing the cultivation of rice and the olive, for the French immigrants who had been duped at Gallipolis, for the priests at Cahokia and the Jesuits at Kaskaskia, for residents of a Territory performing militia service, for opening roads, for seats of government for the several States, for erecting court-houses in Ohio counties, for the members of the George Rogers

Clark expedition, and for the relief of the sufferers from the earthquake at New Madrid, in the Missouri Territory. Individual grants for meritorious and unusual service had been made to the Marquis de Lafayette, to Lewis and Clark, as well as to their men, to Henry Dohrman, and others.

Dohrman's case illustrates the extension of private benefits when once entered upon and the ease with which Congress shifted from land to money as the medium to be employed. He was agent from the United States at the Court of Lisbon during the Revolution. "His house was frequently the asylum of whole crews of captive American seamen, who were fed, clothed, and relieved in sickness through his benevolence, and that at a time when his attachment to the cause of America was dangerous both to his person and property," said the Continental Congress in voting him back pay and a township of land to be located in the North-west Territory. Thirty-five years later, Congress voted an annual pension to his widow, and an annual sum for the education of his children. The transition from the lands to money was not marked by any opposition from those who believed that the actions of the Central Government should be confined to the powers specifically given to it. The unionistic horizon was gradually widening.

The precedent established in the North-west Territory of granting one-thirty-sixth of the domain for the purpose of supporting the public schools had been followed in States formed from the later territorial accessions. Before 1830, the States of Ohio,

Indiana, Illinois, Louisiana, Mississippi, and Alabama had profited in this way. By special enactment, all townships, which for any reason failed to secure section number sixteen, were given permission to select an equivalent located elsewhere. Two additional townships had been given to each State for the same purpose. These praiseworthy gifts were made under the original "compact" with the States.

It was felt that higher education under control of the States should be similarly encouraged. Various grants of land for "seminaries of learning" were made, some in pursuance of the act admitting the State to the Union, others by special grant. In 1829, thirty petitions were before Congress for grants of land for educational purposes in the various States. "Education" had already been defined to include both primary and secondary schools. In 1819, it was extended to a distinct class of schools. The elder Gallaudet had inaugurated in Connecticut his education of the deaf and dumb. Having demonstrated that these unfortunate people were capable of being taught a language and various trades, he appealed to the National Government for aid and was granted a section from the public land. The precedent thus formed was immediately utilised. A similar institution in Kentucky was the next claimant, and received similar encouragement.

The gradual growth of national sentiment may be traced by reading the debates in Congress as reported on these various measures. Year after year, Congress took advanced ground, entered upon new

lines of national activity, and enlarged its powers into a confederated Republic. In general, the acts were too insignificant to demand much attention or to call for serious opposition. The complete debates upon them were rarely reported and are lost. The résumés show that doubts upon constitutionality were gradually replaced by considerations of expediency. Occasionally a speaker would question whether the Federal Government had a right to bestow a benefit upon a local institution or enterprise; but it was not difficult to show that the ultimate benefits would be national. This was especially true in schemes for the improvement of means of transportation.

The public land sales furnished the funds under which the Cumberland Road was begun. They formed the disguise under which direct appropriations were made for its construction. The argument that a road through the lands afforded access to prospective buyers and guaranteed a route for bringing products to market was equally good for any highway. There was an abundance of land, but a pretext for undertaking a new enterprise was not always easy to find. The Ohio River, the western complement of the Cumberland Road, accommodated those who chose that route to the Mississippi region. Those who elected to go by the Mohawk route found passable highways as far as the western boundary of the "Connecticut Reserve," in northern Ohio. Beyond that and skirting the western end of Lake Erie, was the Black Swamp, which had cost the United States so dearly

in the War of 1812. Through it lay the shortest way to the Territory of Michigan. The unusually tardy growth of population within this Territory was attributed to its inaccessibility. Its friends in Congress in 1824 found that a treaty with the Indians inhabiting the Michigan region nearly twenty years before promised them a road to be cut from the limits of the "Connecticut Reserve," in northern Ohio, through the Black Swamp to the Rapids of the Miami of the North, a famous point of rendezvous. Commissioners had been authorised in 1811 to survey the road, but no further steps had been taken. The treaty with the red men had met with the usual neglect, but was now brought forth to serve the white man as a warrant for doing something which he wanted to do.

The constitutional difficulty in the way of the proposed road arose from the fact that it would lie entirely within the State of Ohio. If Ohio had been a Territory, precedent could have been found in the various military roads being constructed through the different Territories. A "trail" between Nashville and New Orleans had been recently widened and improved into a highway for the passage of "the great southern mail." In its dilemma, Congress turned to this treaty as a contract which ought to be fulfilled. An act was passed by Congress in 1824 giving to the State of Ohio a strip 120 feet wide through the public lands from terminus to terminus of the way, with the additional gift of all land lying within a mile on either side to defray the expense of building the road. Instead of the States

being benefactors to the Union, the latter was now conferring favours on individual States. Constitutional objection, growing weaker with the lapse of years and the growth of custom, was silenced by the argument that the road was a military road, clearly within the limits assigned the Union. Michigan, it was said, was the most vulnerable portion of the United States, Florida alone excepted. Settlers going to Michigan were obliged to pass through British Canada and to return their products by the same foreign channel.

Other claimants for public favours were not tardy in taking advantage of this precedent and in forming new ones. Indeed, a beginning of another use of the public lands had been made two years before. It was acknowledged that a waterway through the public lands would carry prospective purchasers to them and return their products to market more efficiently and economically than a highway. The old portage paths, running from stream to stream, afforded numerous examples of the need of such artificial waterways. Apparently without debate in either branch, Congress in 1822 authorised the State of Illinois to mark out a canal through the public lands lying in that State from the southern bend of Lake Michigan to the Illinois River. A strip ninety feet on each side of the canal was also donated for its use, together with materials for its construction to be taken from the public lands adjacent. The only recompense exacted was the right of passage of troops or property of the United States without payment of toll. It was an important pre-

cedent in the canal-building era which was just beginning. The improvement would lie entirely within a State,—the very ground on which the application of New York for aid to the Erie Canal had been so frequently rejected. The public lands formed the all-important difference in the two cases.

One benefit bestowed always created another claimant. The surveyors who went into the public lands in Indiana in 1818 had run levels from the Wabash River to the Miami of the North, now the Maumee. An act of Congress two years after the Illinois grant authorised the State of Indiana to mark out a canal through the public lands between these streams on precisely the terms set for the Illinois and Michigan Canal. An amendment was offered donating all land lying within one mile on each side of the strip, the sale of which would aid in constructing the canal. This was the method proposed for building the Black Swamp road in Ohio at the same time. Here was an entirely new proposition. Not only right of way but construction of canals was to be provided by the Federal Government. The amendment was defeated, partly because the work would be of local benefit only, and because Virginia's compact with the Union, when she yielded the North-western lands, promised that they should be held for the common benefit. The advocates of the canal insisted that it was a national work, completing a waterway communication between New Orleans and the Great Lakes, and necessary for the general defence. At the same session, a bill authorising the Territory of Florida to open a

canal through the public lands passed the House without question, but was postponed in the Senate.

Donating a right of way through the lands for the canals was simply anticipating further action. Nothing was done under the grants. In 1827, acts were passed simultaneously for granting to these Illinois and Indiana enterprises a quantity of land equal to one-half of five sections in width on each side of the canal, each alternate section being at the same time reserved from sale by the United States. The precedent of the Ohio road through the Black Swamp had now become of service. The following year an Ohio canal connecting the Great Miami with Lake Erie received a similar grant from the public lands through which it passed. Further grants were given at later periods. Tracts of public lands adjacent to the proposed work were also granted for improving the navigation of various rivers in Alabama.

In this way, the demands of the people were breaking the bonds of strict construction and extending the benefits of the Union. At the same time, the people were growing accustomed to government patronage of State enterprises. It would soon be a simple matter to extend similar aid to private projects. The great heritage of the public lands was rapidly being diminished by these and similar inroads. The practice of confirming the title to various "donation lands," made by governors prior to American ownership and those given to heads of families granting the lands they occupied, further reduced the public domain. These bene-

ficiaries were almost invariably foreigners. But Americans were to be found among them who had frequently settled on land without a title. To protect those who had made homes in this unauthorised manner in the Illinois country, Congress in 1813 granted them the right of filing a preference for their lands at the public land office prior to a sale and of then acquiring a title to their farms at the regular price. This was the origin of the right of "pre-emption," gradually extended to other regions in which settlers had adventured and expanded until it became the benevolent law of 1862.

So lavish had the General Government been in its administration of the lands entrusted to it, that by 1830 it had given to the States for schools, roads, and seats of government 6,692,537 acres; to the States for canals and other internal improvements, 1,655,074 acres; and to individuals, 8,727,753 acres. In round numbers there were seventeen million acres of donation, but there had been sold at the same period over twenty-nine million acres. The receipts for these sales approximated thirty-seven million dollars. These figures would seem to indicate a realisation of the early hope that the domain would prove a blessing to the national treasury; but the expenditures for purchasing the Indian titles, and for surveys and roads, had reached forty-eight million dollars, leaving the General Government some ten million dollars in arrears on its administration of the public lands.

Few found any complaint in this unsatisfactory showing made by the trustee's books. Like many

unexpected fortunes, the public lands have been freely dissipated by the people's representatives. Only their exhaustion will cause a full appreciation of the possibilities lost with them. In 1830, no one spent time in grieving over the portion disposed of, but in looking at the vast quantity remaining. In the larger view of history if not of public economy, the lands were fulfilling by their very dissipation a superior destiny in making the Federal Union.

The chief dissatisfaction was that which existed in the older States because of the grants made to enterprises located in the newer States. The beginning of the public domain had been made by the sacrifices of States which were now being deprived of any direct benefit. The old jealousy between the East and West sections lay underneath this feeling. Many propositions were advanced for returning the lands to State control. It was proposed to sell at a minimum price to the States in which the land was situated that portion of it lying in each. This was not pleasing to the new States which had not the money to purchase and were apparently getting as much as they desired without cost. Others wished to divide the land equally among all the States. Still others would give the States a direct interest in the proceeds inuring from the sales of the land.

The difficulties arising from a distribution of the land itself were very many. A multitude of land systems would arise, inter-State dissension and speculation would follow, and a direct loss to the public treasury of not less than a billion dollars would be sustained. These objections could not

hold against a distribution of the proceeds of the sales of the land under Federal management.

In 1833, Clay, the champion of the Western people, succeeded in getting a bill through both branches of Congress, which gave twelve and a half per cent. of the land sales to the seven new States in which they were located and then distributed the remainder of the proceeds for the year among all the States according to population. This was an advanced step in paternalism. It was pure profit-sharing. Its support came largely from the North. Eighteen of the twenty-four affirmative votes in the Senate came from north of the Mason and Dixon line. Fifteen of the twenty negative votes in the Senate were from States south of the line. This distribution of votes represents the sectional views on the proposition. Parties were scarcely reorganised as yet. "I most deeply regret," said Clay, "that the South, hitherto, has opposed that measure. They will regret it some day if it fails; for the public lands will be lost to the country, without some such measure is adopted."

President Jackson withheld his consent from the bill because the action would violate the compact under which some of the States had originally surrendered their claims to the land and because of lack of constitutional power to confer such benefits on the States. Undoubtedly the States would use this money for constructing public works. Jackson thought the application of national money to State improvements equally objectionable whether voted directly or indirectly in this manner. The trend of

events was not lost upon him. "It appears to me," said he, "that a more direct road to consolidation cannot be devised."

Clay resolved to bide his time. He appreciated the growing demands of the people for the public lands. Sooner or later their longing could be turned to his political benefit. Madison and Monroe had been able to recall the people to the path of strict construction by vetoes, but it was too late in Jackson's time. His popularity for the nonce might render them tractable, but some day the party must pay the penalty. "King Veto" was not likely to prove more acceptable in America than he had been in France in the preceding century.

CHAPTER III

THE STATES AND THE INDIANS

FROM the proceeds of the sales of the public lands, the expense of purchasing the Indian right to the soil deducted a large sum. It formed one of the heaviest expenses of the land administration. In the first forty years of national control, nearly thirty-nine million dollars had been spent for this purpose. As rapidly as the Indians could be persuaded to yield, the negotiations were carried on. In 1832, there were about 227,293,884 acres of public lands lying within the States and Territories. The Indian title remained over 113,577,869 acres of it. The prime difficulty in securing favourable action on the part of the savages arose not from their hostility to the Government, but from the conduct of their white neighbours toward them.

Driven back step by step across the continent, the red man vainly endeavoured to resist the advance of the white. Opposing his rude weapons and individual movements to the superior armament and mass discipline of the civilised man, the savage had in several instances temporarily checked the

intruder and held his own while calling upon the Federal Government for protection. But in the end he was always beaten.

It was the policy of the national authorities to regard the savage as the rightful owner of the primeval soil until his "title" should be extinguished. This was accomplished by means of treaties, as if the tribes of Indians had been foreign nations. Scores of these Indian treaty lines were run, commonly in a north and south direction. Beyond these the whites were to be restrained from advancing by their Government and east of them the savages promised not to disturb the settlers. The public lands in the part of the domain thus secured for settlement were at once surveyed and placed on the market. So strongly did the migrants in the rear push on those in advance, so keen was the desire to secure the land occupied by the savages, that even the restraining hand of the National Government was unable, at times, to keep settlers from passing the Indian treaty lines. A statesman may have exaggerated when he was exasperated into saying that the United States had made several hundred treaties with the Indians and had broken every one of them; but there is more than a modicum of truth in the general statement. The Federal troops were officially stationed upon the border to protect the Indian from the white man; but naturally they came to be regarded as placed there for the purpose of protecting the settler from the revenge of the savage. Trooper and settler thus had a common cause against the uncivilised man. Public sentiment forgot that

the aborigines were the recognised owners of the soil until their title was transferred. They forgot that the Indians rarely if ever were the aggressors in a warfare; that they were always a prey for unscrupulous officials and traders; and that they were not educated up to the moral standard of civilised methods of warfare. Public sentiment regarded only the massacres, the scalping, the atrocities; and public sentiment finally accepted the verdict of a high official in the army that "the only good Indian is a dead Indian."

It must not be thought that the national officials were universally negligent of their duty towards these wards of the Republic. In 1819, an annual appropriation was made by Congress for the employment of "capable persons of good moral character to instruct them in the mode of agriculture suited to their situation, and for teaching their children in reading, writing, and arithmetic, and performing such duties as may be enjoined." To carry out these humane provisions on a worthy scale was a difficult matter while tribal relations were sustained and vast tracts of land invited nomadic habits. Judging from previous experience, generations would pass before any considerable number of Indians would be susceptible to education and the art of agriculture. Manifestly both savage and civilised man would be best served by removing the Indians to the extreme West, where they would be safe, presumably, for years to come from molestation by the advancing whites. It was not a new idea. In his draft for an amendment to

the Constitution validating the Louisiana Purchase, Jefferson proposed to use a portion of that vast tract upon which to colonise the Indians.

A provision of this kind was incorporated in the act of 1804 creating the Louisiana district, of which St. Louis was the chief city. It brought so vigorous a protest from the people residing in that vicinity that the project was abandoned. While the Government hesitated, the region just beyond the Mississippi was gradually occupied by the whites. There seemed to be no place for the Indians. Soon after the War of 1812, the plan of removing them to the extreme West was revived by the Southern people, who were hampered in their expansion by the warlike tribes inhabiting that section. The tribes in the Northern States had disintegrated more rapidly and had proven more tractable in being dispossessed by treaty agreements. The front wave of people had barely reached the Miamis in northern Indiana and the Pottawattomies in central Illinois, while Southern civilisation had completely surrounded the Cherokees and Creeks in Georgia and Alabama, at the same time threatening to encompass the Choctaws and Chickasaws in Mississippi. Consequently these Southern States had more reason to wish the compulsory removal of the Indians than had their Northern sisters. The Seminoles had been disposed of in 1823, when they agreed to migrate to the Everglades of southern Florida.

The Indian question, in 1830, had assumed the shape of a contest between the savages under Federal protection and the citizens of the States, who

coveted the Indian lands. The Federal Government had long maintained exclusive control of the Indian trade. Various acts regulating the traders had been passed at different times since the Revolution. One of these, the act of 1834, formally created an "Indian country" from the land lying west of the Mississippi and not within the States of Louisiana and Missouri or the Territory of Arkansas. Within that great region, a "reservation" had been marked out for the Choctaws in 1820, a beginning of the Indian reservation system west of the river. A similar reservation was made near Green Bay for the New York Indians. Calhoun, in his report for 1825, as Secretary of War, advocated the creation of an "Indian country" in the present State of Wisconsin, to which the remaining Indians from Ohio, Indiana, and Illinois should be removed. This was at once construed by certain Northern partisans into a desire to curtail Northern expansion and as a revenge for the hostility shown in the North toward the Southern cultivation of friendship with the Mexican State of Texas. These charges increased the sectional feeling between the Federal and State Governments in the various contests for the control of the Indians, which characterised the decade between 1825 and 1835.

The difficulty was precipitated through the Creeks in Georgia. At the time that Georgia ceded her claims to land west of her present limits, she made the Federal Government promise to extinguish the Indian title to all lands within her limits as soon as it could be done "peaceably and on warrantable

terms." That the time would be far in the future was shown by an act of Congress of the same year evicting all trespassers on the lands of the Indians in the State of Georgia. This action was in accord with several old treaties which "solemnly guaranteed" both Creeks and Cherokees in the possession of their lands until voluntarily relinquished. This relinquishment was gradually accomplished. By 1819, there were not over nine million acres within the State occupied by Indians. The whites pressed closely upon this space and Georgia petitioned Congress to fulfil completely the promise made to her in her cession of 1802.

Urged by Georgia, commissioners representing the United States arranged a treaty in 1825 with three Creek chiefs, whereby all their land in Georgia was to be vacated within twenty months. The treaty was ratified by the Senate in the closing hours of Monroe's administration and signed by his successor. Although the Creek nation repudiated this treaty and executed the chiefs who made it, Georgia officials began to make surveys in the Creek country. President John Quincy Adams learned later that the treaty did not represent the views of a majority of the Indians and advised the Senate to cancel it. He stopped the surveyors of Georgia and secured a new treaty which ceded most of the coveted land to the United States. Not satisfied with this partial victory, the governor of Georgia ordered his surveyors to renew their work. Adams ordered out the Federal troops to prevent them. Governor Troup next defiantly assembled the Georgia militia.

Bloodshed was imminent between the State and the Nation. The Georgia Representatives in Congress drew up a declaration that neither the President of the United States alone, nor the President and Senate conjointly, nor any part of the National Government had any constitutional power, without the consent of Congress, to interrupt or invalidate, on any pretence whatsoever, the rights secured to that State. Hence they "most solemnly protested against the violation of the rights of that member of the Union, leaving it to the constitutional organs of the State sovereignty to indicate or to waive those rights." They were assured by Governor Troup that the State and Union held equal sovereign powers; that disputes between the two could not be referred to any tribunal of either; and that he would maintain the right of the State until some constitutional arbiter between the two should be established.

The Georgia champions in Congress denied, among other acts, the constitutional rights of the United States to make "treaties" with Indians in a Territory and much less in a sovereign State. Treaties, as understood in the Constitution, could be made only with foreign powers. The action of the Chief Executive was especially condemned by some speakers in the debates for using "force in the most odious of its forms—military force—a portion of the standing army, of the hired soldiery against a State law." His inconsistency was shown by the fact that he had allowed Georgia to execute a law prohibiting persons of colour coming into the State on board a foreign vessel. He had protested that it was

contrary to a treaty with Great Britain, but had taken no steps to compel the State to repeal the offending law. If he was so eager to enforce the provisions of the treaties with the Indians, why not extend his ambition to foreign treaties as well?

Adams has been frequently criticised by ultra-Union adherents for having yielded to State-rights advocates in the end of the controversy with Georgia over the lands of the Creeks. They point out that the treaty of 1802 with the Indians was still in force and that, according to the Constitution, treaties should be the supreme law of the land. Admirers of Adams reply that the treaty of 1826 superseded the treaty of 1825. The others answer that the second treaty was illegal. It was legal in form, but there was a question whether it represented the wishes of the majority more than the first treaty had done. It was largely a matter of judgment. "Happily distributed as the sovereign powers of the people of this Union have been between their General and State governments," said the President to Congress, "their history has already too often presented collisions between these divided authorities with regard to the extent of their respective powers." An appeal to arms would be most unfortunate, he thought, presenting the aspect of one of the confederated States at war with the rest. He therefore laid the situation before Congress for direction.

Congress, having first promised any Creek who would remove within two years "one rifle gun and ammunition, a butcher knife. one blanket, one brass kettle, and one beaver trap," decided to abide by

the last treaty and voted nearly two hundred thousand dollars to be distributed among the chiefs and camp followers who had secured the treaty. Georgia protested, no doubt truthfully, that the Federal Government was buying the compliance of these chiefs and renegades who no more represented the tribes than did the three chiefs who signed the repudiated treaty. Weary of the contest and finding themselves unable to cope with both State and Nation, the recalcitrant Creeks abandoned the struggle and, before 1830, had vacated their lands and migrated to a reservation within the present State of Kansas.

The Cherokees, neighbours to the Creeks, were equally opposed to being removed from their lands in Georgia. They were much further advanced in civilisation than the Creeks, having churches, schools, a written language, and printing-presses. Consequently, they presented a more difficult problem. The State authorities declared their organised government an alien sovereignty erected under national protection within the State of Georgia and hence not to be tolerated. The United States, on the other hand, regarded them as wards of the nation and possessed of their lands under legal treaties. Encouraged by its success in driving out the Creeks, Georgia assumed control of the Cherokee lands in 1829, annexing them to the adjacent counties, and forbidding further recognition of the Indian Government. If the Cherokees had little to hope from President Adams, they had still less to expect from his successor. Andrew Jackson represented the

attitude of both soldier and borderer toward the savage. For years he had fought the red men, impairing his health on the campaigns, and, doubtless, enjoying a revenge for the sufferings inflicted by the foe upon one of his ancestors. Jackson told the Cherokees plainly either to submit to the demands of the State of Georgia or to join those of their number who had already migrated to the West. As a Southern man, Jackson may have been actuated by a sympathy with State sovereignty in Georgia; but he was influenced much more by his hostility toward the savage.

Debarred by constitutional implication as well as by custom from being regarded as citizens of a State, prevented by the Eleventh Amendment from bringing suit in the Federal courts as foreign citizens, the Cherokee tribe as a foreign nation instituted action against the State of Georgia. Treaties had been made with them as with foreign nations, and the Supreme Court was given cognisance in the Constitution over cases arising under treaties. This was a novel interpretation of the "tribe" organisation of the aborigines, which made them into a foreign state. In rendering a decision in the resulting case of the Cherokee Nation *vs.* Georgia, Chief Justice Marshall and a majority of the court in 1831 held that an Indian tribe is not a foreign nation, although treaties are made with it, and cannot sue or be sued in the United States courts. It would appear that neither President nor Court was inclined or able to protect the weaker man in this contest. But Marshall, in giving his opinion, made one of his

celebrated gratuitous digressions, as the individualists thought it, to say that the Cherokees formed a distinct, self-governing state, and as such could be recognised by the Court. Events soon put the Indians in the way of benefiting by this suggestion.

Ten white men, missionaries, were arrested by Georgia for violating a State law forbidding unlicensed whites to enter the land occupied by the Cherokees. Two of these, Worcester and Butler, were imprisoned for persistently refusing to comply with the law. Worcester appealed to the United States courts, being a citizen of Vermont, under the constitutional guarantee of all rights and privileges in the several States. In 1832, Marshall delivered the opinion of the Court, declaring all the acts of Georgia usurpations of power, and pronouncing Worcester's sentence repugnant to the Constitution, treaties, and laws of the United States.

A novel phase of the relations between the divisions of the National Government was here offered. Had the Federal Judiciary power to enforce its decrees? Was the President bound to enforce them? The answer was found, as it always will be, in the temperament and personal attitude of the Chief Executive toward the Court and its decision. No constitutional obligation rests upon the President to carry out a decree of the Court. Jackson was quoted as saying, "John Marshall has made his decision; now let him enforce it." The State of Georgia gave no heed to the decree. The Cherokees were eventually harassed into signing the treaty of 1835 by which they joined the other remnants of

the original owners of the American soil beyond the Mississippi.

Georgia settlers rushed into the land as rapidly as it was vacated. Within a few years slaves to the value of a quarter of a million dollars had been carried into the land recently in dispute. The problem of the Indians east of the river was solved. But the effect of the contest upon the development of the national functions must not be lost sight of. The fact remained that a United States court had declared a State law null and void. By refusing to obey the accompanying mandate, the State nullified the decree of the Court. It was a practical and successful application of the theory of nullification, as applied to the national Judiciary. At almost the same time another Southern State was attempting to apply the theory to a law emanating from the national Legislature.

CHAPTER IV

STATE NULLIFICATION AND FEDERAL UNION

THE spirit of independence shown by the people of Georgia in dealing with the United States authorities on the control of the Indians manifested itself in the people of the adjacent States in other particulars. The feeling of separateness and resulting self-reliance was due largely to the manner in which the people had fought their way around the southern end of the Appalachian chain to plant the inland regions of the South Atlantic and Gulf States. The difficulties under which they laboured were fully as severe as those which met the trans-Allegheny pioneers in planting an empire under government protection. No great highways of river and lake stretched invitingly in the direction they wished to take. Hostile Indians contested every foot of their advance. Unrelinquished State claims to the land delayed the advent of the official surveyor and the opening of the national land offices. Spanish ownership of the Floridas barred for years both ingress and egress by the Gulf of Mexico. Few forts were planted by the National Government

to protect settlers in those remote regions. The States in that section, as they were created from time to time, did not assume the individuality which marked their Northern contemporaries. They simply constituted "the South." They were long overshadowed by Virginia, the eldest born, the mother of Washington, of Jefferson, of Madison, and of Monroe.

But a new economic factor was silently working a change in Southern leadership. Tobacco had made Virginia. Cotton was now making the Gulf States. In a great sweep from South Carolina to Texas, paralleling the Gulf of Mexico, lies a comparatively narrow strip of soil so different from the sandy soil of the tide-water region on the one side and the barrens of the piney uplands on the other, that it is known as the "black belt." It varies in width from twenty to more than a hundred miles, with occasional valleys reaching out on each side. Barring the sea-islands of the coast, the soil is the best adapted in the world to the production of cotton. The States which it crosses were settled about the time that Whitney's gin called attention to the possibilities of this staple. Its culture was extensively inaugurated. The annual crop of cotton in the United States, too inconsiderable to be mentioned in 1790, had reached probably forty million pounds ten years later. This production was doubled during the next decade and quadrupled in twenty years. In 1830, 120,000,000 pounds of this valuable staple were produced in the United States, the bulk of which came from the "black belt."

The owners of this land became men of wealth. By competition, their neighbours along the coast were reduced to small farmers and those in the barren uplands degenerated into the "poor whites." They revived the landed gentry which had been known to Virginia in Revolutionary days. The political power accruing from representation of three-fifths of their slaves erected them into the so-called "slave oligarchy," which dominated United States political history for the thirty years preceding the Civil War. Locally these planters lived the lives of leisure and had the deference paid to them which would be accorded in other lands to aristocracy. Some of them participated actively in national politics. Coming from the plantation school of citizenship, they were likely to be intolerant of restraint, headstrong, and sensitive to the criticism of the slave system to which they owed their predominance. If they entrusted their political interests to their lawyer-statesmen, these unconsciously assumed the same imperious manner.

Of the several States crossed by the "black belt," South Carolina was the oldest. She was the first to appreciate the effects of her cotton wealth, the first to assume the fallen leadership of Virginia, and the first to protest when she awoke to the ill effects of certain national legislation on the Gulf interests. This awakening changed the views of her leaders from national to local aspects. The "warhawk" Calhoun of 1812 was not the local Calhoun of 1830. His national vision had narrowed to a local horizon. Lowndes, the intense American of the war time,

was dead. He was replaced by McDuffie and by Hayne, both ardent South Carolinians. Evidence of the decline of the State, for which these statesmen sought explanation, could be found in the decreasing per cent. of her growth in population. In the first decade following 1790, South Carolina had grown in population 38.7 per cent. This had fallen to fifteen per cent. in the decade preceding 1830, and to two per cent. in the decade following. This decrease was common to the older Southern States, but none suffered so much as South Carolina. Charleston, the fourth city in rank in the United States in 1790, had fallen to sixth place in 1830, being passed by Boston and New Orleans. If South Carolina had noted the vast growth of population in the new Southern States to the west of her, she might have found some explanation for her decrease because of the drain thus made upon her population. The development of these new States formed a contrast unfavourable to her. In 1833, the new slave States raised about as much cotton as did the old slave States; but in 1837, they raised nearly twice as much. Instead of searching for the causes of her decline in the general economic conditions, South Carolina examined only the cotton crop. The price of cotton in 1821 was 16½ cents; in 1832, it was 9⅛ cents. A possible explanation of this decrease might have been found in the increased production. The amount of cotton grown had more than doubled during those eleven years. But the South Carolina statesmen placed the blame for all this shrinkage upon the United States tariff laws.

Henry W. Longfellow

The economic theories held in both Northern and Southern States when the tariff of 1816 was imposed had changed very materially by 1830. Calhoun and Webster, the first favouring and the latter opposing a tariff measure at the former date, had been actuated mutually by national impulse. The one believed that protective legislation would be beneficial to the United States, and the other that it would be injurious. The lapse of a decade localised manufactures and turned both of these statesmen into sectional partisans,—Calhoun to defend the agriculturists of the South and Webster to guard the interests of the manufacturers of the North. The eyes of both Southern and Northern people had been opened to the fact that a tariff always benefits the manufacturer more than the producer. That the tariff is a tax on imported goods bearing a duty was also believed by many.

McDuffie, of South Carolina, had worked out a localisation of these tariff axioms. He declared that an impost upon foreign goods, received in exchange for domestic products, was equivalent to a tax upon the products. Cotton was the local product of South Carolina, and the tariff, increased from time to time, was the tax, equivalent to an export duty. Now the Constitution forbade the levying of a duty on articles exported from any State; but in this indirect manner, according to McDuffie's theory, an export duty was laid upon the cotton States. Since cotton represented about one-fifth the products of the United States, the Gulf States paid an unequal share of the Federal

taxes. They bore, in McDuffie's opinion, the same relation to the Union that the British colonies sustained to the mother country prior to the days of 1776. The products and manufactures in which the Middle and Western States were interested, including iron, hemp, wool, and sugar, were not exported and yet were protected. This satisfied these States. Consequently, the contest lay between the extreme portions of the old domain.

Tariff duties had been raised gradually after 1816 until, by the act of 1824, they reached an average of thirty-seven per cent. This rate should have satisfied the advocates of protection and produced an era of prosperity. But England at this time was shifting her economic policy from protection to free trade. These changes, together with a depreciation in the paper currency of the United States, were largely responsible for the financial depression which prevailed in America about 1825. It was declared that increase of duties was the only possible remedy. As a result, the "tariff of abominations" of 1828 was passed, after a battle fully as selfish as that of 1789, each interest seeking to save itself through protection. The new tariff increased the rate on various manufactures, especially coarse goods used by slaves, until the Southern States were driven both to despair and rebellion. Randolph well voiced their sentiments when he protested against the title borne by the bill, an act "for the encouragement of domestic manufactures." He said domestic manufactures were made at home, benefiting individuals, while this measure protected factory goods, enriched the

owners, and robbed one-half the Union for the benefit of the residue.

The leadership which South Carolina assumed in this emergency was not due to one man, Calhoun. The sentiment was general throughout the Gulf region that the steady encroachment of the Central Government upon the States must be met on some issue, either the bank, the Supreme Court, internal improvement, or exorbitant tariff duties. So engrossing were these evidences of the growth of national legislation that they distracted attention from a number of minor measures indicative of the assumption of power by the Union. Acts had been passed by Congress regulating the carrying of passengers upon vessels, forming a precedent for the later national control of immigration and inter-State commerce. Other acts formed links between the quarantine law of 1799, which made Federal officers subordinate to State officials in regulating this important matter, and the national quarantine law of 1878, under which States have been sometimes disciplined by the Federal Government. Because of its importance as a commodity, Congress regulated the sale of "plaster of Paris," a forerunner of national legislation on various commodities as well as foods. The early practice of utilising local jails for Federal prisoners had been partly changed by resolutions of Congress authorising United States marshals to provide Federal jails in certain contingencies. Important as these details are now to the student of the making of the Union, they were too insignificant at the time to warrant any general protest, especially

when the economic grievance of a ruinous tariff was demanding State attention.

The tariff presented assuredly the most urgent if not the most efficacious grounds for protest. At one time South Carolina had been an ardent supporter of the Union, advocating through her representatives a liberal use of the implied powers, and championing a free construction of the Constitution. She was now transformed by the alleged abuse of the administration of the Union into a recalcitrant, who denied the existence of the implied powers and was prepared to resist by force their exercise by the Union. At one time recognising the States and the Union as joint sovereign powers in a compact, South Carolina now defined the Union as the creature of the States, and its laws as subject individually to the choice of the States to be obeyed or nullified according to their judgment.

"Nullification," the remedy which South Carolina wished to apply to curb the presumption of the central agency, regarded the Union as one of States and not of individuals. It claimed that the people of the States never came in contact with the Union except through the States; that the States alone were capable of judging when their rights had been trenched upon by the agent; that they have power to interpose in a dangerous crisis to stop such inroads and to maintain their liberties; and that three-fourths of them in convention assembled may decide in such dispute either in favour of the State, when the imposition of the Union is for ever stayed, or in favour of the agent, in which case the State

must submit or secede from the compact. The United States courts are not valid umpires in such disagreements, says nullification, because they are judicial bodies and the dispute is political. They have authority to pronounce on the delegated, but not on the reserved powers. State courts, being subject to appeal to the Federal courts, are equally useless in such an emergency.

Nullification, whether or not the same in theory as "interposition" in the Virginia and Kentucky Resolutions of thirty years before, marked in its application an advance in the contest between the States and the Union. The two remedies differed widely in their method of procedure. Interposition sought a concerted action of the States; nullification authorised a State alone to resist the Federal Union. Madison, the survivor of the days of interposition, considered that remedy as constitutional. It sought a correction by amendment. Nullification was unknown to the Constitution. It meant a suspension of the law until the disputed measure could be passed upon by three-fourths of the States. Granted even that the Union was a compact, a creature of affection only, nullification could paralyse every activity of the Union in any State, thereby virtually dissolving the compact. It is difficult in modern thought to imagine how a State could remain in the Union, enjoy its benefits, and yet obey or disobey its laws at will. Webster declared nullification without secession an utter impossibility. He compared it to plunging over Niagara Falls with the avowed intention of stopping half-way down.

"What madness in the South to look for greater safety in disunion!" said ex-President Madison. "It would be worse than jumping out of the frying-pan into the fire. It would be jumping into the fire from a fear of the frying-pan."

No issue had ever stirred the nation to its depths as did the contest over the right of nullification. Whatever sectional dissension had arisen heretofore was the result of some immediate disturbance or based upon some economic condition. Here was a theory which could be abstracted from the tariff issue which precipitated it and applied at any time and to all conditions. It was a culmination of the long uncertainty and dispute over the relative powers of State and Union. Appeal to the forum, to the public, was a natural concomitant of the dispute. It preceded the appeal to the sword by thirty years. Indeed, the "Exposition" of 1828, now presumed to have been written by Calhoun, had been too widely circulated to avoid a discussion in the national legislature, even if Northern statesmen had not sought to precipitate it in order to aim a blow at the heresy.

The South was as willing as the North to discuss the matter. Senator Hayne, of South Carolina, was just as eager as Senator Webster, of Massachusetts, to bring the matter to public attention in the strong light of a senatorial debate. Opportunity was found in a discussion over a resolution concerning the public land policy to precipitate a series of debates and rejoinders between these two sectional leaders. A discussion which began as a matter of

pure expediency between the Eastern and Western sections of the country was transformed in this way into a sectional controversy on the natures of the Union engendered by Northern Unionism and Southern individualism. It cannot be said that many new arguments were advanced in this Hayne-Webster debate of 1830. Accusations of sectional disloyalty, sneers about "blue lights" and Hartford Conventionists, charges of inconsistency upon public improvement policy, and disputes concerning the authorship of the anti-slavery clause in the Ordinance of 1787, throw little light upon the great question of the nature of the Federal Union. But old arguments and authorities were assembled and given a new dress.

Neither can it be said that many people were convinced in this historical summary of facts, presented as each side understood them. It was a drawn battle. Webster insisted that "we are all agents of the same power, the people. The general government and the state governments derive their authority from the same source." He denied that the Constitution was the creature of the States. "It is, sir," said he, "the people's constitution, the people's government, made for the people, made by the people, and answerable to the people." On the other hand, Hayne declared the object of the framers of the Constitution to have been a consolidation of the Union and not a consolidation of the Government. "It was not to draw power from the states," said he, "in order to transfer it to a great national government, but, in the language of the

Constitution, 'to form a more *perfect* union.'" He had great difficulty, when justifying the stand his State was taking, to prevent the action being called a revolution. He insisted that it was entirely a constitutional resistance.

The opposition which the State of South Carolina was offering to the Union was along two lines—constitutional and economic. The one concerned the right of the Federal Government to levy an unconstitutional tariff; the other looked to resistance by force to prevent the collection of duties under it within the State. Without the attendant exposition of nullification, it is probable that the resistance of South Carolina to the Federal officers would have passed with as little notice from the people at large as had other similar frictions, marking the growth of the Union. Pennsylvania, for instance, in 1809, had ordered out State troops to resist a United States marshal in the execution of a decree of a Federal court. Nor was her record altogether singular. When the Supreme Court in 1819 decided that neither Maryland nor Ohio should tax branches of the United States Bank, the latter State forcibly took the amount she had levied from the bank's vaults, refused the use of her jails to the United States marshal for detaining the offending State officials, and receded very reluctantly from her position upon the return of more prosperous times.

As early as 1828, the people of South Carolina held popular gatherings, dressed themselves in homespun, and passed resolutions to have no intercourse with the tariff States. Meanwhile news-

papers and pamphlets amplified the nullification theory. It was resolved, by an appeal to the ballot, to maintain the rights of the State. Since the revision of the tariff in 1832 gave the South Carolinians only partial justice, as they thought, a convention was called in the autumn of that year. It passed an ordinance declaring any recent tariff act "null, void, and no law binding upon this State, its officers or citizens." Hayne was called from the United States Senate to become governor of the State, and Calhoun resigned the Vice-Presidency to take his place. The next move must be made by the Federal authorities under Andrew Jackson as President.

No action of Jackson, the President, must be considered apart from Jackson, the man. A Southerner by birth, by association, and by intense democracy, antagonistic to the manufacturing interests of the wealthy classes, Jackson would supposedly be in sympathy with the South Carolina movement. Undoubtedly its leaders depended upon him; but the sudden interruption of his friendly relations with Calhoun changed his attitude. He could not separate his enmity toward Calhoun from enmity toward South Carolina. It is also to be remembered that Jackson had taken an oath to execute the laws of the United States, and that South Carolina proposed to nullify one of those laws. There was just enough of the Scotch Covenanter in Jackson, just enough of border reverence for forms of religious worship to regard an oath as a matter of conscience. Andrew Jackson was no less a Southerner because he was first the President. To his mind, untrained

in the subtleties of logic, resistance to the laws constituted treason to his country. Few men have loved their country with such jealous solicitude as did this rough old Indian fighter.

Serving notice of his attitude in the famous toast, "The Union, it must be preserved," Jackson reinforced the Federal forces in the forts, removed the custom-house from Charleston, and ordered the laws rigidly enforced. With the aid of his Secretary of State, Livingston, he drew up the famous appeal to the South Carolinians which was issued in December, 1832, as a proclamation, but was in reality an exposition of the nature of the Union. It was couched in stronger terms even than the reply of Webster to Hayne when insisting that the States surrendered much of their sovereignty to the Union at the very beginning of the national control, and in denying that the Union is merely a league which may be dissolved at pleasure. John Tyler, a Senator from Virginia, denounced the proclamation as a tremendous engine of federalism, tending to consolidate the States into one body politic. The interesting fact is that Jackson was putting forth, under his hand and seal, a document containing the precise principles of an indissoluble Union, for which the majority of the States contested in a civil war thirty years later. Its tone was not harsh but paternal. "Fellow citizens of my native state," it pleaded, "let me not only admonish you, as the first magistrate of our common country, not to incur the penalty of its laws, but to use the influence that a father would over his children whom he saw rushing to ruin."

At almost the same time, Jackson sent a request to Congress for more power to be used in quelling insubordination in a State. This brought forth within a few weeks the "Force bill." It authorised the removal of a custom-house to a vessel in a harbour, if necessary, to collect the duties. It also warranted the use of military force to execute the laws, and it protected Federal officers in the discharge of their duties from State punishment.

On the nullification side of her resistance, South Carolina was clearly beaten. Congress sustained the President. Georgia and Alabama alone gave her support in resolutions. She was compelled to suspend her ordinance of secession permanently. On the economic side, she won a partial victory in the Compromise bill of 1833, arranged by Henry Clay, which provided a gradual reduction of the duties of which she complained. Andrew Jackson, hero of many a battlefield, never won a greater victory for the maintenance of law and the perpetuity of existing forms than when he encountered the people of his supposedly native State. Nullification was routed at the outset by a Southerner and a State-rights man. South Carolina stepped back, patiently to await the crystallisation of Southern sentiment and the appearance of some moving cause which would enable her to set "nullification" forward to "secession" and so avenge the insult of 1833 and wipe the odious "Force bill" from the category of acts to which she was bound to pay obedience.

President Jackson was not converted to Unionism

and lost to individualism, as might be imagined from his toast, "The Federal Union," and from his rejection of the nullification theory. As President of the United States, he had made South Carolina bow to his iron will; as President, he had signed Livingston's proclamation; as Andrew Jackson, he had punished Calhoun. Yet these actions did not alter his political affiliations. He was still sound on internal improvements, the bank, and the public lands. His general attitude toward Southern interests may be seen in his annual message of 1832; his attitude toward the special case of nullification is set forth in the proclamation issued at almost the same time. As Clay said, "One short week produced the message and the proclamation—the former ultra on the side of state rights, the latter ultra on the side of consolidation. How they can be reconciled, I must leave to our Virginia friends."

A series of papers published after his retirement from office attempted to show the unswerving fidelity of Jackson to individualistic principles, notwithstanding the South Carolina instance. Indeed, at the very time the proclamation was issued, a lotion for its injuries appeared in the administration presses, inspired by the President, which admitted the right of State resistance and interposition under certain conditions. Unfortunately for Calhoun and South Carolina, their conditions were not favourable in Jackson's opinion.

CHAPTER V

PATERNALISM IN THE MIDDLE PERIOD

REASONS why the election of Andrew Jackson to the Presidency was regarded by his followers as a victory for reform were advanced in preceding chapters. He soon became in public thought the father of his people. Gradually he came to regard himself in that light. The extensive replacement of Federal office-holders was simply a continuation of the good work of bringing the people into their own. With the exception of Van Buren and a few others, Jackson's henchmen were hitherto unknown men, of local horizons, and suspicious of the commercial or moneyed class. In the latter respect, they were true disciples of Jeffersonian democracy. But they represented a purer democracy, they came from a lower intellectual order, they were nearer the people than Jefferson had been. They were neither college men, philosophers, nor landed gentry. But they were actuated by hatred to the same superior social class.

Jefferson and his followers fought the Hamiltonian idea of using the Government to aid invested

interests because they feared the centralising effects it would have upon the Government. Jackson and his followers combated the same interests because of their fear of the effect such legislation would have in enriching its beneficiaries. Jefferson viewed the first United States bank with suspicion because it was a Federalist creation, unwarranted by the Constitution, and tending to seduce the General Government from the proper field of its activities. Jackson held a similar antipathy toward the second United States bank because he thought it was a monopoly, preventing the masses from entering the same line of business, and a part of the gigantic combination invented by professional politicians for the purpose of keeping the people from conducting their own government. In his opinion the existence of the Republic was menaced far less by the bank as a constitutional creation than by the bank as a means of national corruption.

No one could doubt the influence which the bank might bring to bear on national legislation if it chose to use that method of furthering its interests. With a capital of thirty-five million dollars secured by subscription to its stock, handling on an average six million dollars of government money, patronised to an equal extent by private depositors, the bank issued twelve million dollars in paper notes which circulated at par in all portions of the world. Its stockholders were to be found in every State and in every foreign nation. Fully one-fifth of the stock was owned outside the United States. Its annual profits averaged more than three million dollars, of

which the Federal Government received nearly half a million as its share of the dividends.

In the main bank at Philadelphia and in the twenty-five branch banks scattered through the States, it had more than five hundred employees. Many of these were high-salaried and influential men. Not alone at the seat of government, but throughout the United States the bank had the means for creating a vast and potent lobby. It was in good repute among the people. Jackson voiced not general sentiment, but his own suspicions and predispositions, when he said in his first annual message that both the constitutionality and expediency of the bank having been questioned by "a large portion" of the people, and that having failed in establishing a uniform and sound currency, the bank might well be replaced by an institution founded by the United States instead of individuals. That the Federal Government should virtually pay a corporation for handling its money seemed to him an absurdity. Seven years of the twenty for which the bank had been chartered remained; but its influence in Congress was likely to tempt it to seek a recharter at any moment. Such action must be anticipated.

The details of Jackson's contest with the bank had slight effect on national history, but the result made an important contribution. The two United States banks had been successively the repositories for national funds. Collectors of revenue and other officials might deposit in private banks if they chose; but the latter must be ready to transfer such deposits at any time upon request to the United States

Bank. When the second bank expired because Jackson refused to allow it to be rechartered, the United States was compelled to have some place of deposit. The Administration therefore chose certain local banks which were officially known as "selected banks," but were speedily dubbed "pet banks" by their less fortunate rivals. Under the stimulus of the large sums placed at their disposal by the United States, the "pet banks" engaged extensively in the speculation mania which began during Jackson's second term. Not being compelled to compete with the United States Bank, the number of State banks increased rapidly. In 1830 they numbered 330, and in 1837 they had increased to 634. The Federal money entrusted to them in the meanwhile had trebled in amount, but their individual assets had not doubled.

When the panic of 1837 came upon the country, many of these banks failed for large amounts, compelling President Van Buren to adopt a plan heretofore advocated by the opposite party and borrowed primarily from a practice in use in the State of New York. It provided an "independent" national treasury, not connected either with State or United States banks. Receivers-general in various cities were to accept the public money and transmit it by post-office or by special conveyance to the nearest mint or to Washington. At the latter place a "sub-treasury" was to be provided, containing vaults and safes for storing the national gold and silver. No other kind of money was to be accepted hereafter by the United States. Jackson, as the father of

his people, and Van Buren, as his successor, had succeeded in divorcing a business interest from the Government and in securing a form of the national bank, "founded upon the credit of the government and its revenues," which Jackson had suggested in his first communication to Congress. But Jackson's "fight" against the second bank has had to bear, and must continue to bear, the criticism of those who consider government a proper agent for the encouragement and protection of business interests and who are content to confer benefits on the people indirectly through this medium.

In the early years of the Government, the banking business of the United States had been done largely in the commercial centres of the Eastern States. Of the 330 banks in existence in the United States in 1830, four-fifths were located east of the Alleghenies. A decade later, the list of suspended banks showed that men in all sections of the country had availed themselves of the privilege of embarking in enterprises for which they were ill qualified. Arkansas alone of the States had no bank. Michigan, while yet a Territory with less than one hundred thousand people, had seven banks which circulated a half million paper dollars. The widespread distribution of these State banks was due not only to the people coming into their own by the annihilation of the United States Bank, but also to the abnormal conditions of the business world which characterised the decade from 1830 to 1840. This may be traced partly to England's change of policy, but even more to the period of inflation and

speculation inaugurated by the application of steam to land carriage and its vast resulting possibilities.

The idea of a waggon to run on rails long antedates the modern railway. Evidences of its use in America at a comparatively early date are numerous. In 1805, Judge Theodore Sedgwick, of Massachusetts, was inquiring of a friend about the railway on which it was reported that a horse drew more than fifteen tons at a rate of four miles an hour. "Is it all a humour?" he asked. "It is a story that goes beyond the marvellous." Latrobe's appendix to Gallatin's famous report of 1808 suggested that a double-track railway for horse-power could be constructed with two parallel rails six feet long at a maximum cost of ten thousand dollars a mile. Stephenson's experiments with the steam locomotive were duplicated in America, as the numerous applications for patents and monopolies attest, but not with equal success. At the first inauguration of Jackson, a newly invented railway car was shown in the rotunda of the Capitol, in which eight persons were drawn by a single thread of common sewing cotton. In the spring of 1830, a horse railroad, intended eventually to reach the Ohio River, was in operation for the first thirteen miles out of Baltimore. Only two horses were required for the "brigade" of coaches which left each terminal three times a day. The fare was seventy-five cents for the round trip, about three cents a mile. On the opening day, one hundred persons were drawn by one horse as a test. The money for construction had been raised by the sale of stock to individuals,

the corporation not being patronised by either State or Federal Government.

This Baltimore and Ohio Railway appeared in Congress in 1830 as a petitioner for aid from the national treasury. Its sole claim lay in the fact that national assistance had been given to other forms of internal communication, to the clearing of rivers, to the construction of roads, and for the digging of canals. Already the railway was proving that it could be made as efficient as any of these forms of public benefit and national defence. It was true that the proposed line lay within States and not Territories and that no part of it could be said to open the public lands. But precedents had been made in certain canal grants, of which the railway proposed to take advantage.

The arguments by which canals had been granted right of way through the public lands of Ohio, Indiana, and Illinois have been described heretofore. If congressional aid was to be confined to this qualification, canals in the older States would be deprived of their share of the public land benefits. For twenty years an inland water route had been planned to extend from Massachusetts to the sounds of North Carolina. Through it vessels in war time could pass from one part of the coast to another without encountering the enemy. One of the links, a canal to connect the Delaware River with the Chesapeake Bay, appeared in Congress as early as 1816 as a petitioner for assistance. Whatever chances it had of overcoming constitutional objections were destroyed by amendments giving

appropriations to other enterprises of a similar nature in the proposed system of communication.

But a new way appeared before 1825 by which constitutional barriers might be evaded. The United States Bank furnished a marked precedent for the Federal Government to become a stockholder in an enterprise, subscribing money for its shares, and partaking of its benefits in the shape of earnings. The "bonus" bill of 1816, vetoed by President Madison, had proposed to employ the sum paid for the bank privilege in constructing these internal improvements. It was now proposed to use the proceeds of the bank dividends for this purpose, beginning with the Chesapeake and Delaware Canal. In this way, one stock would be made to serve another. If dividends had not sufficiently accumulated to subscribe for the amount of canal stock desired, there was the precedent of the Cumberland Road for which money had been "advanced" from the national treasury in anticipation of receipts from the land sales.

This canal was represented as more worthy of aid than any of the works previously given assistance, because they had been undertaken without the cooperation of the States to be benefited. But the States of Maryland and Delaware, through which the eleven miles of canal would pass, had subscribed to its stock and had given consent to its construction. The way was thus cleared for the subscription by Congress of $300,000 for shares of canal stock.

This donation, as it really was, of money to the Chesapeake and Delaware Canal in 1828, was imi-

tated, during the next year, by subscriptions to the stock of the Dismal Swamp Canal and to the Louisville Canal. Three years later, the Chesapeake and Ohio Canal was given its share. The opposition grew weaker with every benefit conferred and with every new claimant that appeared. It was not a difficult task to prove that each enterprise was "national" in that it contributed to the national defence; that it would facilitate the transfer of troops and supplies; and that it would have saved no small part of the enormous expense of transportation in the War of 1812. An enthusiastic speaker in the Senate foresaw the time when cannon would arrive in Baltimore from Pittsburg before they had time to cool; and when a whole regiment of troops would be transported from Baltimore to New Orleans in eight or nine days, all ready for battle. Little tolerance was shown for those who wished to consider whether the Federal Government had the right to construct these works within the boundaries of the sovereign States. Said one debater:

"The same Constitution, which legalizes the removal of brambles for the free passage of the surveyor's chain, gives equal right to construct the contemplated work. There is no partition of power. If Congress can act at all, it can act with effect. If it can make a road or canal, it can employ the accustomed means to keep the work in repair."

The opposition to a consolidation of the Central Government now saw the mistake of permitting the

use of its engineers even to make surveys for these improvements. That action, in 1823, had been the entering wedge. The zeal which one portion of the country showed in the welfare of another portion was marked. The Florida representative manifested a strong interest in an Indiana canal, or an Ohio member was much concerned that North Carolina should have the Dismal Swamp Canal widened to serviceable dimensions. Florida and Ohio wished similar assistance. There must be co-operation or rivalry between them, and they wisely chose the former. As one speaker observed in debate, the fear of violating the Constitution had long since disappeared; the prime obstacle to State cupidity was local jealousy lest one member get more of the spoils than another. Many of the old-school constructionists lost heart. Said Macon, of Georgia:

"I rise with a full heart to take a last farewell of an old friend whom I have always admired and loved—the Constitution of the United States. . . . The first time I ever knew Congress to refuse to discuss a constitutional question involved by a proposition was when the act was passed incorporating the present bank of thirty-five million; from that time the Constitution has been asleep. . . . Then they got into a system of manufacturing and everybody was to get rich by it. The next thing was the system of a great navy and fortifications, which was to make us one people from the Atlantic to the Rocky Mountains, from the Bay of Passamaquoddy to Florida; but has it done so? And now the people are to be tied together by roads and canals. This is as wise a plan as was ever devised to add power to the govern-

ment. Do a little now and a little then, and by and by we shall render this government as powerful and unlimited as the British Government is. We go on deciding these things without looking at the Constitution and I suppose we will, in a few years hence, do as was done in England —we shall appoint a commission to hunt for precedent."

These subscriptions to the stock of various canal schemes encouraged the Baltimore and Ohio Railway to offer shares of its stock to the National Government in 1830. Overshadowed by the contemporaneous Hayne-Webster debate and the growing interest in the attempt of South Carolina to nullify the tariff law, this action has not received the attention it deserves. Considering the extent to which the construction of railways grew within the next few decades, the influence they command, and the difficulty now experienced by the Federal powers in regulating them as common carriers, one hesitates to predict the result if the United States had extended its paternalistic hand to them in their inception. That it would not have resulted in municipal ownership is most sadly proved by the experience with the Pacific railways to which support was given from the public lands at a later time. Cupidity is as common to corporations as to people. The National Government would have helped build the roads, only to be squeezed out in the end. Money spent on the rivers and harbours, on military roads and the Cumberland National Turnpike, proved a direct advantage to the people. Whatever benefit the people derived from railways would have

been at the mercy of corporations. The Baltimore and Ohio would have served as a precedent. Even at the time its incorporators applied to Congress, companies had been formed to construct the York and Maryland, the Lexington and Ohio, the Petersburg and Roanoke, the Franklin and Vermont, the Newcastle and Frenchtown, and the Boston and Lowell railroads. They would have followed with supplications if a precedent had been formed. Congress represents all portions of the domain.

The State of Illinois in 1837 was allowed the privilege of using lands granted for constructing a canal to be diverted to building a railroad. This action was used as a precedent at a later time. No other approach was made toward aiding a railway for upwards of twenty years. The late hour at which the Baltimore and Ohio Railway bill was called up in Congress was the chief cause why it was laid upon the table. At the next session, a committee, reporting on the general system of internal improvements, announced that the Baltimore and Ohio road would continue to be built, as it had been commenced, by private capital.

This statement indicated a new era in the commercial history of the United States. The long struggle of promoters for means with which to launch enterprises was past. Capital had accumulated sufficiently to finance ventures in any legitimate field. Fifty years had elapsed since John Fitch was compelled to wander from one State Legislature to another, soliciting financial aid with which to construct a boat to be propelled by steam.

The Girard, the Astor, and the Vanderbilt fortunes were already collected. The names of Aspinwall, of Drexel, and of Johns Hopkins would soon be familiar in the financial world. European capital was seeking American investment, as shown by the distribution of stock in the United States Bank. In 1836, Webster thought fifty million dollars from Europe had been loaned to the individual States.

The main difficulty encountered by promoters of railways was the uncertainty whether that form of transportation could overcome the advantages offered by the canal. Long discussions occupied the prints of the day, calling attention to the respective merits of the two. The imperative demand for a means of transportation across the Allegheny Mountains and the impossibility of a canal on the waterless uplands finally cast a decision in favour of the railway. Since both railway and canal were planned originally to connect natural waterways, the extensive possibilities of construction offered by the railway did not appeal so strongly as they do at present.

American inventors and engineers found an incentive in the railway. The interest it aroused about 1830 can be likened only to that created by the experiments with the hot-air balloon near the close of the Revolutionary War. Newspapers vied with each other in describing the astonishing achievements on the railroad. At Charleston, South Carolina, a car driven by sail carried fifteen passengers at a speed of twelve miles an hour. Twenty-four persons were drawn thirteen miles in sixty-four minutes

on the Baltimore and Ohio Railway by a "locomotive engine," constructed by Peter Cooper, later the New York philanthropist. Friction brakes were applied to the wheels of the cars, serving their purpose without injury to the wheels. A pivotal axle was invented which enabled cars to be drawn around a curve. This was a most important aid to railway construction, since a straight line was no longer imperative. Government surveyors, "in the present deficiency of accurate data," as one of their reports said, "unable to decide positively on the superiority of locomotive or horse power," arranged for either means of traction. Stephenson's ultimate success in England with the steam locomotive banished the horse from the railway. Locomotives of his pattern were speedily constructed in the United States.

It may be said that the Union would have been prevented by President Jackson from entering upon the policy of granting money for the construction of railways, even if such a measure had passed Congress. The attitude of Jackson toward public improvements is difficult to explain. He was from Tennessee, a new State, a Western State, and one which claimed its full share of national aid. It lacked the State wealth with which New York built her Erie Canal. One navigable stream traversed the length of the State and a considerable section of another lay within her borders. Jackson at heart cared little for constitutional warrant when he wished to do anything, although he frequently used it as a convenient excuse. He was intensely devoted to the Union and to its interests. As a soldier, he could

appreciate the need of internal communication for the national defence. The only antipathy he could have felt toward internal improvements arose from the fact that they formed a part in the public mind of Clay's "American system." They were used constantly by Clay's friends in making appeals to the people in his behalf.

A great highway to New Orleans had been a project discussed for many years. Rivalry between the Atlantic States and those west of the Alleghenies over its location delayed the inauguration of the work. Neither section could rally enough votes to support the scheme without the assistance of the other. The extension of the Cumberland Road through the Middle West turned the scales in favour of a Western route. A turnpike incorporated in the State of Kentucky, to extend from Maysville, on the Ohio River, to Lexington, solicited a subscription to its stock from the National Government. It claimed to be a link on the proposed New Orleans highway, just as the Chesapeake and Delaware Canal was a link in the proposed coast system of canals.

The petition was strongly opposed in the States which secured no immediate benefit. That the mail for New Orleans should be delayed by poor roads, as pathetically described by members from that region, was not of much moment to people living in New Hampshire or North Carolina. A writer in a New England newspaper exhausted his wit in predicting the days when "national avenues across the state, adorned with rows of elms, and enlivened with glittering equipages will mark the decline of

that liberty which the state governments were wisely ordained to guard." A Virginian was goaded into exclaiming, "From national roads, from national canals, from national banks, and, above all, from national statesmen, good Lord, deliver us!"

These and similar resistants to the further aggrandisement of the central power rejoiced when President Jackson refused his consent to the Maysville Road bill. His ostensible reason was that the public debt, now reduced to about forty million dollars, should be entirely extinguished before the inauguration of new sources of expenditure. He also expressed his doubt whether a road lying entirely within the State of Kentucky could be considered a "national" enterprise. He further suggested the old Jeffersonian expedient of an amendment to the Constitution as a prerequisite to congressional action. If this suggestion had been carried into effect, it would have presented at this time an *ex post facto* appearance, justifying scores of previous actions and the expenditure of millions of dollars. It would have served only to satisfy a troubled national conscience.

Opponents of Jackson and supporters of Clay's American system called attention to the slogans which appeared in the Democratic papers when exulting over Jackson's action. "Throw overboard the internal improvement system and down with the tariff!" was one appeal. Another cry was, "Death to the American system!" They also pronounced it a systematic war upon their pet policy because at the same session Jackson vetoed appropriations for

HENRY CLAY, THE HUNTER OF KENTUCKY

A cartoon of the campaign of 1844.

the Louisville and Portland canal, and the improvement of the Falls of the Ohio, together with a great system of lighthouse and harbour construction at a cost of half a million dollars. He allowed an appropriation for a road between Detroit and Chicago to escape his veto only on condition that no part of it should be spent outside of the Territory of Michigan. A Georgia newspaper thought the American system had received a blow which it was hoped would prostrate it forever. "The internal improvement system will now rest, at least for seven years; *esto perpetua* —may it rest forever," commented a North Carolina editor.

Whatever hopes of this nature were entertained by the strict-constructionists, they were dashed when it was found that Jackson was not so hostile to all improvements as his action and words in this instance would indicate. He simply selected certain works as objectionable. His opponents suggested that if Clay had not lived in Kentucky and if he had not been given so much credit for securing the passage of the Maysville Road appropriation, although not in Congress at that particular time, Jackson's attitude toward it might have been far different. They also called attention to the various canal, road, and other enterprises for which Jackson had voted when a member of the Senate.

At another time, Jackson attempted to make a distinction between external and internal improvements, between ocean and fresh-water commerce. This was a distinction which no President had been able to maintain. "Commerce," over which Con-

gress had control, may have been intended originally to mean ocean commerce only; but it is no easy task to determine where ocean commerce ends and where internal commerce begins. Jackson submitted the River and Harbour appropriation bill of 1832 to the Engineer Department of the army with instructions to classify the proposed improvements in this manner. Out of the forty items for which money was appropriated, twenty-one were ascertained to be neither on the seaboard, lying between an ocean port and an interior port, nor directly accessible to ocean vessels. Among these were the Wabash, Muskingum, St. Francis, Raisin, and Kentucky Rivers in the interior States, the Chicago harbour on Lake Michigan, and a number of small streams or upper portions of navigable rivers on the Atlantic plain. Containing so many local improvements, not connected with ports of entry designated by law, the entire bill was vetoed.

Undoubtedly the attitude of Jackson changed temporarily the history of national improvements. He sounded the knell of further extension of these works. The rage for paternalistic national aid was to wane for a time. Attempting to force the President into compliance with its will and to meet the demands of the people, Congress placed improvement items as "riders" in the general appropriation bills. This was a novelty in the relation between the two branches of the National Government. Only small sums could thus be secured. The system was really checked until after the Civil War. Congressional aid to public works, which amounted

to $60,000 in 1810, and had grown to $2,087,044 in 1838, decreased to $50,000 by 1845. The total appropriations for such purposes made under the different Presidents have been tabulated as follows: Jefferson, $48,400; Madison, $250,800; Monroe, $707,621; Adams, $2,310,475; Jackson, $10,582,882; Van Buren, $2,222,544; Tyler, $1,076,500.

The development of the railway was not alone responsible for the paternalistic demands of Jackson's time. At least two other factors must be considered —the completion of the Erie Canal and the increase of steam navigation on the Western waterways "improved" by the Federal Government. Uniting, in 1825, the waters of Lake Erie at Buffalo, New York, with those of the Hudson at Albany in the same State, the long artificial waterway not only made New York the metropolis of America and accommodated the people dwelling in the interior of the State, but extended its blessings to a surprisingly remote distance. The storehouse of the Great Lakes had at last been tapped and its accumulated products poured forth. Where the people of Ohio had once paid five dollars a hundred for goods carried by waggon over the mountains to or from Philadelphia, they now had freight rates by the Erie Canal to or from New York at $2.50 a hundred and a saving of ten days in transit. Receipts from the canal tolls soon reached a hundred thousand dollars a year.

At Buffalo all this business was concentrated. From this point it was collected or distributed by lake steamers. The primitive *Walk-in-the-Water*

had reached the head of Lake Huron about 1820. Twelve years later, the first steamboat reached the mouth of the Chicago River. In 1839, eight large boats were plying regularly between Chicago and Buffalo. Within the next two years, no less than fifty steamers were in service upon the Great Lakes, together with sailing vessels valued at more than a million dollars. The total commerce of the lakes was estimated at not less than twenty-five million dollars.

At the time that the Lake region was being developed by the Erie Canal, the Ohio and Mississippi valleys were opened by the navigation of the two streams bearing those names. Cleared of obstructions by the Federal Government and marked by lights at needed places, these rivers invited investment for purposes of trade. Between 1834 and 1842, the number of steam vessels in use increased from 230 to 450. Their tonnage increased from sixty-five thousand to four times that amount. They carried down the Mississippi River goods to the value of at least one hundred and twenty million dollars in a season, and brought up an almost equal amount. This combined trade was about equal to the total foreign trade of the United States at the time. If the great extent of the domain caused danger of sectional separation, it had some advantages in producing a home trade, free from orders, decrees, seizures, and embargoes.

So prosperous were the times in Jackson's first administration that people began to talk, as they had in Jefferson's day, of the possibility of extin-

guishing the national debt. Year after year the prospect of the millennium brightened. In 1836, the obligation reached the low point of $37,513.15, about one-fourth of a cent for every inhabitant. At the beginning of the Government under the Constitution, the debt had averaged twenty dollars per capita. In 1800 it was reduced to sixteen dollars for each inhabitant. Jefferson had placed the time of its extinction about 1815, but the war had carried the expectation forward. Now it was about to be realised. A surplus must follow. Various plans for the disposition of that part of it arising from the land sales had already been formed. Some would use it for the emancipation and colonisation of the negro slaves; others wished to improve the city of Washington; and still others would build a great national highway from the Atlantic to the Pacific. However, the cupidity of the States must first be satisfied. The same year that the debt reached the low point described, the lowest in American history, Congress passed a bill for making the States depositories for any surplus funds above five million dollars remaining in the national treasury. These "deposites" were to be made four times a year to the treasurer of each State, to be called for whenever the National Government might require the money. Jackson reluctantly signed the bill, since it was not to be a gift but a deposit. He was caught on his "pet bank" precedent.

Once more had the strict-constructionists been compelled to finesse in order to maintain their doctrines and yet satisfy the people. Did Jackson

really believe that the "deposites" were loans to be repaid by the States to the national treasury? Did he fail to see that they were in reality gifts to the States precisely of the kind he had declared unconstitutional? In the early part of his administration he had said that such a distribution of the surplus was the only thing to prevent "that flagitious log-rolling legislation." Six years later, he thought that Congress could not distribute; it could only deposit. The one would be a perpetual gift; the other was simply temporary. A government rarely becomes so wealthy that it must seek some temporary expedient to rid itself of its surplus cash lest corruption and degeneracy follow. Whether the dispersion shall be accomplished by an open gift or by a deposit which no one expects to see withdrawn except in the final emergency of war must be a matter for careful discrimination on the part of those who sail between theory and popular demand.

The United States Treasury had not long to wait before it needed the funds on deposit. Three quarterly payments, conveying $37,000, were made to the States during the year 1837. The fourth was postponed. The national treasury had no surplus. The panic of 1837 had fallen on the country. Instead of wiping out the national debt, the Administration was forced to borrow ten million dollars. Before 1843, the public debt had increased to thirty-two million dollars and the dream was ended. Paternalistic suggestions of State distribution of the surplus, as well as for public works, would have small chances with an empty treasury.

The hue and cry against executive usurpation was not altogether due to the use of the veto, nor was it entirely the result of the people coming into power and desiring to raid the national treasury as well as the national patronage. It was part of the aggressiveness of the common people and a general restlessness under authority. Nevertheless the arbitrary manner of Jackson made his veto actions more offensive. Comparing him to a tyrant, as was George III., the opposition looked upon themselves as the resisting patriots and hence assumed the name of "Whig" from Revolutionary times. For removing the United States money from the bank, Jackson was "censured" by vote of the Senate. He protested strongly that no right of censure existed in the Senate; that impeachment of him was the proper remedy. The Senate refused to place his protest on their Journal.

The free use of the veto, as said heretofore, was the chief cause of popular discontent. Washington withheld his consent from two bills; Adams and Jefferson from none; Madison from six; and Monroe from one. Jackson exercised the right nine times. The opposition nicknamed him "King Andrew," who was "born to command," and who received the counsels of his friends with the remark, "I will assume the responsibility." They called attention to the growing power of the Executive in the number of Federal officials scattered through every township and hamlet in the United States. Thirty-five thousand post-office officials alone were dependent upon his will. Some feared that this

vast influence might tempt a President to make his office permanent; others attributed much of the consolidation tendency of the Republic to the ties of executive influence.

Sectionalism found shape in Jackson's eight years in disputes over the tariff, the bank, and internal improvements. Fortunately the slavery issue was in a transition state which kept it in subjection. Yet Jackson's terms covered the birth of a movement destined to revive all the strife of the unfortunate days of 1820.

CHAPTER VI

ABOLITION AND COLONISATION

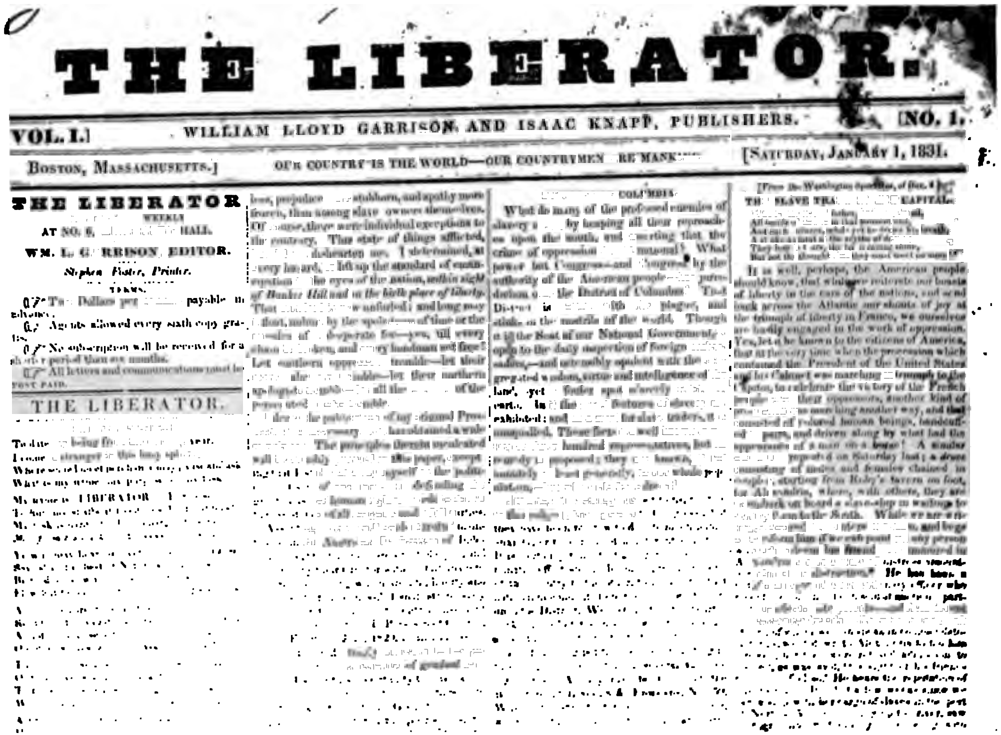
A MOST important and ever-present side issue of the slavery question in America arose from the disposal of the free blacks. In 1790, there were about sixty thousand of these people scattered through the thirteen States. Virginia contained about one-fifth of them and Maryland the next largest number, indicating the strong anti-slavery feeling of the day in these States for economic reasons. The next largest number dwelt in Pennsylvania, because of contiguity to the slaveholding States and because of the friendly attitude of the Quakers. In 1840, the number of free coloured people had increased to 386,293. Maryland now contained the greatest number, with New York second, Virginia third, and Pennsylvania fourth.

The free black was an anomaly in a country which permitted slavery. In the slaveholding States, he had a bad influence over those of his colour who remained in bondage. He was not amenable to overseers; he was restrained with difficulty; and, if made independent by emancipation, he became only too

frequently a public charge. In the free States, he found few avenues of labour open to him, and with difficulty maintained himself and his family. His condition both North and South depended entirely upon his own actions. No general statement can be made. Self-respecting free blacks dwelt in both sections, who were self-supporting and a credit to the principle of emancipation. But they were the exception. Laws controlling this class of persons in the slaveholding States were frequently incorporated into the slave code. Even in the free States, rigid laws became necessary as the number of free coloured people increased. The Constitution expressly guaranteed that citizens of each State should have all the privileges and immunities in these several States.

But whether the negro was a citizen had never been officially agreed upon. In debating the Missouri constitution in 1821, which required the State Legislature to forbid free negroes and mulattoes entering the State, it was shown that in only one or two of the States was a negro given the right of suffrage, and that in none of them was he allowed to serve in the militia or upon a jury. Even in organising the city of Washington, directly under the care of the United States, the corporation was allowed to make conditions under which free negroes might reside within the city.

The Declaration of Independence announced the equality of man; but that blacks were not included was proved by the recognition of slaves a short time later in the Constitution and by the national natur-


THE LIBERATOR.

VOL. I.] WILLIAM LLOYD GARRISON AND ISAAC KNAPP, PUBLISHERS. [NO. 1.

BOSTON, MASSACHUSETTS.] OUR COUNTRY IS THE WORLD—OUR COUNTRYMEN ARE MANKIND. [SATURDAY, JANUARY 1, 1831.

THE FIRST NUMBER OF GARRISON'S ABOLITIONIST NEWSPAPER

alisation acts which restricted citizenship to "free white persons." Original if not indisputable testimony was produced during the debate on Missouri by Pinckney, of South Carolina, a member of the Convention of 1787, who testified that when the clause guaranteeing rights of citizens in the several States was written, no one supposed it included black men.

Although Missouri was compelled to strike the clause from her constitution, the status of the free black was still unsettled. Every State had some kind of vagrancy law applicable to both black and white. The apprentice system was still in vogue. By making use of these two devices, vagrancy and apprenticeship, most States controlled the free blacks. The States of Ohio, Indiana, and Illinois, separated for hundreds of miles from slavery only by the breadth of the Ohio River, and peopled largely by former residents of Virginia, Kentucky, and Tennessee, were compelled to pass various laws for protection from free negroes. Ohio, for instance, after 1829 forbade negroes and mulattoes from entering the State without giving two sureties to the amount of five hundred dollars that they would not become public charges. Concealing a negro from the State authorities was punishable by fine and liability to be charged with his support. No black was allowed to give testimony in a case where a white man was concerned. So strong was the feeling against the negroes in the State about 1835, that a mob chased several hundred of them from the vicinity of Cincinnati. They fled to Canada and there established a colony.

There is scarcely a doubt that if some proper disposition for the freedmen could have been found, Virginia and the other border States would have passed emancipation laws in the early days. Countless suggestions of colonisation and segregation were made but none seemed feasible. It was the hope of a few enthusiasts to see the segregated free negroes realising the blessings of self-government in some country over which they could have full control. But the experience of forty years with the black republic of San Domingo was a constant argument against the fitness of the blacks for this high privilege. Some wanted to make reservations for the negroes on the west side of the Mississippi, as was being done for the Indians; but the State of Louisiana and the Territory of Arkansas exhausted the Southern public lands quite to the line of Mexican Texas. There was no place in America where the free negro could find a home within the climatic zone to which he was best fitted.

Like the Indian, the emancipated negro was a pariah from white civilisation. Benjamin Lundy, a Quaker, made journeys to Texas to find a place for the freedman, but abandoned the plan when Texas became independent and re-established slavery. He next turned to Hayti with the same object in view. Others wished to purchase a portion of some State or Territory for the colonisation of free blacks; but their prospective neighbours raised a loud protest. Under these conditions the thought ever recurred that the only disposition possible was to return them to their native land.

African colonisation was bitterly opposed by those who considered the future welfare of the negro. They called attention to the age at which the slaves were generally emancipated, their unfitness after contact with civilisation to return to their former life, and the inhospitality of the climate in any part of Africa in which it was possible to establish a colony. The British colony of emancipated negroes at Sierra Leone was the first impulse. A few negroes were sent to it by the American Colonization Society, organised in 1816, and embracing some of the leading men in the United States. After several attempts, the society established in 1822 a separate African colony, which ultimately became Liberia. Various churches founded missions among its inhabitants. Probably nine thousand negroes emigrated to Liberia or were sent there by the society. The colony was made the repository for slaves found on board captured slavers contrary to the act of 1808. A later law required that all slaves illegally brought into the United States should be sent to Liberia. They were supported by rations issued from an agency maintained by the United States Government from 1819 to 1840. By the latter date, colonisation in Africa was an admitted failure.

This method of getting rid of the free negro was opposed by those who wished to prove that slavery was a benefit to the savage, taking him from a lost condition and providing him with spiritual comfort, and also by those who considered it a device for ridding the slaveholders of a burden which the

system naturally imposed upon them. Many also objected to it because it did not aim primarily to free the slave, but simply to care for those who might by chance gain their freedom. The "gradual emancipation" theory had been changing slowly but imperceptibly into a demand for immediate abolition. Lundy and his fellow agitators, in the feeble prints which they put forth, clung to the old idea; but a partner, William Lloyd Garrison, who joined himself to Lundy's publication at Baltimore, in 1829, assumed for his motto, "Immediate and Unconditional Emancipation." This was in contrast with the Abolition acts passed heretofore in most Northern States. They granted freedom under certain conditions of age or length of servitude or at birth. This demand, if generally assumed, would mean an interference with slaves wherever they might be found, regardless of the wishes of the owner and contrary to the implied guarantees of the Constitution.

It is not surprising that, beginning with 1830, the word "Abolitionist" began to take on a new and definite meaning. He was henceforth to be regarded as something quite different from the harmless, petitioning friend of the slave of previous years. On the first day of the year 1831, Garrison established in Boston a paper, *The Liberator*, with a militant policy. Within two years, the "New England Anti-Slavery Society" had been formed, and shortly afterward on a larger scale, the "American Anti-Slavery Society." Their agents canvassed the States seeking to arouse public sentiment

against slavery. They organised branches in every Northern State, three hundred being in existence at one time in the State of Ohio alone. Money was subscribed freely for their cause; other Abolition newspapers were founded in addition to *The Liberator;* and pamphlets were printed by the thousand for general distribution by the propagandists. The names of Garrison, Louis Tappan, John G. Whittier, Samuel J. May, Gerrit Smith, Theodore D. Weld, Wendell Phillips, and Elijah P. Lovejoy are connected with the Abolition reform movement. The death of the latter at Alton, Illinois, in 1837, at the hands of a mob which was trying to destroy his Abolition printing-press, is an illustration of the persecution encountered by these reformers. The larger cities of Philadelphia and Boston were also scenes of occasional mobs and riots directed against them.

The hostility in the Northern States toward the Abolitionists was largely a reflex of that felt in the Southern section. Many Northern merchants, even those who believed that slavery was wrong, deplored any agitation against it which interrupted their business relations with the Southern people. The latter had at once perceived that "immediate" emancipation meant interference with slavery where it already existed. It meant the annihilation of all the constitutional recognition of the rights of this kind of property. It meant an interference on the part of some or a majority of the States of the Union with the private affairs of other States. In this respect, it was different from the anti-slavery prohibition in

the North-west Territory or in the proposed State of Missouri. If the promoters of this "reform" should succeed in their purpose, the slaveholding States would be ruined financially. It was to them a fight for self-preservation. The first step in self-defence must evidently be to demand the restriction of these societies and the suppression of the circulation of their incendiary publications.

The fear of a slave uprising was never far removed from the Southern mind. The year that *The Liberator* was established in Boston witnessed an insurrection of negroes in Virginia, headed by a religious fanatic named Nat Turner. Fifty-five whites were massacred before the riots could be suppressed. Eventually, seventeen of the negroes were legally hanged, but many others suspected of being implicated were killed and mutilated by the angry whites. It was feared that the uprising would spread to adjacent States. Severe laws were passed by Virginia and other States against the assembling of negroes in religious meetings and the dissemination of literature likely to stir up sedition. The fact that Nat Turner was said to know the Bible by heart and to use it as his most effective agency showed the danger of education and literature among the slaves. Although the few Abolitionists thus far converted to the cause indignantly denied any connection with the Turner or Southampton insurrection, their publications were charged by the Southern people as likely to instigate such discontent if not fanaticism among the bondmen.

The demand of the South for the suppression of

THE DEATH OF LOVEJOY

From a contemporaneous history of the affray. Lovejoy is represented at the left hand corner of the building, being fired upon by three men in ambush.

the Abolition publications placed a new aspect on affairs. No attempt had been made by national enactment to regulate the printing-press since the Sedition law of 1798. The several States, by common consent, were allowed this duty as a police regulation. Attempts had been made in Massachusetts and other Northern States to make the Abolitionists amenable to law for their publications; but no action was taken. The freedom of the press is a fetich with the American people. There was only one means of redress possible left to the slaveholders. If both State and nation were powerless to prohibit the printing of these objectionable productions, at least their circulation through the United States mail could be forbidden.

The Southern States, champions of particularism, turned gratefully to the Union agency for relief from the Abolitionists. They proposed to proceed in a legal manner. Orderly minded Southerners deplored the action of a few ultras who broke open the Charleston, South Carolina, post-office in the summer of 1835, and took away a bag containing Abolition tracts and papers. The Postmaster-General, Amos Kendall, a former resident of Kentucky, was appealed to by the postmasters at New York and Charleston to ascertain whether they had a right to refuse to forward or distribute printed matter which was refused circulation by the laws of certain States. To this new phase of the relation of the States to the Union, Kendall replied that while no postmaster had legal authority to withhold matter owing to the constitutional guarantee of the freedom

of the press, nevertheless, if a postmaster should stop inflammatory papers, he would be justified. This decision, practically a license for violating the Constitution, satisfied neither party to the controversy. The right of a State to protect itself by prohibitory laws must be admitted. The United States officials, by obeying the laws of the United States, laid themselves liable to punishment for disobedience to a State law. It was the old principle of the supremacy of one of the two. Kendall suggested the enactment of a United States statute forbidding the circulation of objectionable printed matter, and President Jackson seconded the suggestion to Congress. But the fear of endangering the freedom of the press prevented action.

Unfortunately for the Southern people, the theory of State rights was in the present instance a disadvantage rather than a blessing. To give Congress or the President a right to decide whether a publication was "intended to instigate the slaves to insurrection," as Jackson's message phrased it, would be to re-enact the Federalist Sedition laws of 1798. Not the Union but the sovereign State must protect its freedom of speech as well as its people from fear of insurrection. Calhoun therefore substituted for the suggestion of Jackson a bill which allowed a postmaster to decide the propriety of printed matter passing through his office by fining him for "knowingly" forwarding incendiary matter. Notwithstanding the impossibility of executing such a law without permitting postmasters to open every piece of mail passing through their hands, the proposition

gained nineteen votes in the Senate, only four of which came from Northern Senators. It failed to pass, and the task of searching the mails was tacitly allowed post-office officials instead of being made compulsory upon them.

In a second way the Abolitionists raised new questions on the relation of the States to the Union. If the Federal Government lacked power to interfere with slavery in a State, it assuredly possessed that right in the District of Columbia. According to the Constitution, Congress had exclusive rights within this space. The Abolitionists made a special issue of the abolition of slaves within the District. Petitions appeared in Congress, soliciting action of this kind and were referred to the committee on the District, attracting little attention. As their number increased, the Southern members showed a growing impatience and, in 1835, the House, by a vote of 117 to 77, laid one of these appeals on the table. This action was a grievous mistake, since it called general public attention to the anti-slavery agitation, a result which the Abolitionists had not yet succeeded in doing. A stream of petitions of this nature now poured into the House. To the Southern people it seemed that the North had opened a war upon slavery. No one supposed that the Abolitionists would be satisfied with having accomplished their end in the District. A campaign against slavery in the States would inevitably follow. "It is a war of religious and political fanaticism," said Calhoun, "mingled, on the part of its leaders, with ambition and the love of notoriety—and waged, not

against our lives, but our characters." He would have Congress openly reject such petitions. The constitutional provision that Congress should make no "law" abridging the right of the people to petition the Government for a redress of grievance was not violated, he claimed, by rejecting a petition in one branch of Congress. Rejection by resolution was far different from enactment of a law. Nevertheless the Senate refused to reject these petitions unread, as Calhoun wished. It simply took no action on any petition after being read.

The House, in 1836, agreed to lay upon the table all petitions referring to slavery and to declare that Congress possessed no right to interfere with slavery in a State and should not do so in the District. Ex-President John Quincy Adams, elected to the House from his district in Massachusetts, fought these "gag laws," as they were called, for ten years, having presented nearly three thousand petitions within that time. He was at length successful in having such papers received, but not because the Abolition sentiment was increasing in Congress. The Southern statesmen began to see that they would injure their cause more by rejecting the petitions than by allowing them to be read, referring them to a committee, and then ignoring them. A few years later, the present custom of having all petitions handed to the clerk of the House, without reading, was adopted. But the matter, trivial in itself, had aided in widening the sectional breach on slavery, and in making the word "Abolitionist" more hateful to the South.

SUPPRESSING THE RIGHT OF PETITION

A sketch, issued in 1839, showing the slavery interests browbeating Northern anti-slavery petitioners in Congress.

In still another manner was the Abolition agitation responsible for emphasising the growing rivalry between the States and the Union. The war upon slavery was carried on not only at a distance, but also by personal contact whenever possible. Many Northern writers took occasion to make tours through the Southern States, ostensibly for the purpose of giving an unbiassed description of what they saw. They were commonly not Abolitionists, but they were Northern men and women, free-State by inheritance, believing fully in the social and economic condition which prevailed in their own sections and consequently intolerant of the manners and customs of the other. Southern people grew sensitive under their strictures, believing them a part of the Abolitionist plan to degrade the South in the eyes of the Northern people and then to place the blame upon the slavery system. There was no doubt that ardent Abolitionists themselves visited the Southern States and surreptitiously distributed their literature. Under protection of the Federal authorities, Abolition presses were set up in the city of Washington. The free negroes of the Southern States were employed, so it was charged, in disseminating this literature and inciting unrest among their less fortunate brethren.

The State of South Carolina in particular had passed laws from time to time regulating free negroes and especially those entering her ports while employed on vessels. These free blacks were accused of enticing slaves on board vessels and carrying them off. Since these State laws applied equally to ships

of all nations, Great Britain complained that they were in violation of her treaties with the United States. The Attorney-General sustained this claim. South Carolina then waived the execution of the laws on foreign vessels, but continued the restriction toward vessels coming from any of the States. Other Southern States followed her example, much to the annoyance of traders and the injury of commerce. One law provided that the letters, "S. S." should be branded on the hand of a person convicted of "slave stealing." Against it, Whittier wrote:

" Then lift that manly right-hand, bold ploughman of the wave!
Its branded palm shall prophesy, 'Salvation to the slave!'
Hold it up before our sunshine, up against our Northern air,—
Ho! men of Massachusetts, for the love of God, look there! "

The State of Massachusetts, a commercial State, and, next to Pennsylvania, the strongest Abolition State, resolved through its Legislature to send a representative to South Carolina to appeal a case of one of her negro seamen to a superior court in order to determine, if possible, whether a negro was a citizen of the United States, entitled to its rights and privileges in the several States. The agent would also be expected to secure evidence of the conditions which impelled South Carolina to pass these restriction laws.

Hon. Samuel Hoar, selected for this mission, was represented by Massachusetts as "unsuspecting of giving offence or provoking violence" by his journey. It is difficult to imagine such guilelessness in the excited condition of the Southern mind over the presence of Northern emissaries and the extensive circulation of offensive literature, emanating largely from Massachusetts. His reception in Charleston was precisely such as might have been expected and probably such as would have been accorded a Southern representative who went into Massachusetts for the purpose of recovering fugitive slaves. The South Carolina Legislature reaffirmed its opinion that free negroes were not citizens of the United States and further declared that "the emissary sent by the State of Massachusetts to the State of South Carolina with the avowed purpose of interfering with her institutions and disturbing her peace, is to be regarded in the character he has assumed and to be treated accordingly." The governor was authorised to expel him after due notice to depart had been given. Having been threatened with violence, and yielding to the earnest solicitations of the leading men of Charleston, Hoar returned to Massachusetts. In his report he inquired: "Are the other States of the Union to be regarded as conquered provinces of South Carolina?"

South Carolina, by her action, had placed her self-preservation, as she called it, above a clause in the Constitution. Sullen because of her defeat on the nullification theory of twelve years before, she now thought an open war was to be waged for her

economic subjugation. She questioned whether she was forced to admit within her borders an objectionable and dangerous citizen of another State more freely than a free negro from another State. It is difficult to see what legitimate point Massachusetts could hope to make by the action except additional irritation. But indirectly she put South Carolina in the attitude of denying constitutional rights to a citizen of another State. It is interesting to note that the Supreme Court has never decided directly the right of a State to make such prohibitory regulations.

The Abolitionists, in demanding immediate abrogation of slavery, did not wholly lose sight of the amelioration of the condition of the slave. That had long been the endeavour of the Friends. Also, what time Garrison and his followers were not attacking the colonisationists, they were engaged in paying their respects to the United States Government for the hypocritical manner in which it was executing the act of 1808 for the suppression of the slave-trade. The charge was most unfortunately true. There was no desire to enforce the law rigidly. The cause lay in the fact that the act had been passed at a time when the cultivation of cotton had not yet changed the whole aspect of slavery and made the increase of slave labour a necessity. Spanish Cuba was the great rallying-place for the slavers. From this point thousands of slaves were sent into the independent State of Texas, thence to be smuggled into the United States in small squads. The Spanish Floridas offered another field for

operations. Frequently negroes fresh from Africa, ignorant of a word of English, would be exposed for sale in Southern cities as fugitives captured in Florida.

Slavers usually flew the Spanish or the American flag because these governments refused to come into any agreement with the other powers for the mutual right of search of suspected vessels. This was the only effective manner of stopping the illegitimate trade. The memory of the War of 1812 and its chief cause was too keen to permit Britain voluntarily to become the policeman of the seas. The United States turned a deaf ear to entreaties of this kind until 1862. More than twelve million dollars were spent by the Federal Government for stationing vessels to intercept slavers and for kindred efforts; but the Abolitionists claimed that there was no heart back of the effort. Slave-trading was piracy after 1820, yet no one was hanged for this offence until 1862. It is estimated that an average of not less than fifteen thousand slaves were annually smuggled into the United States.

Under these conditions, it was impossible to avoid delicate situations in the foreign relations of the Republic. Whether slaves were men or property had never been decided. This was an important distinction in the case of slaves shipwrecked or driven into any country or its possessions, Spain alone excepted. If slaves were men, it was contended that they became freemen when they stepped upon free soil. Britain especially contested for this principle. If they were property, they must be restored to

their owners or they must be paid for. In order to satisfy the American clamour, Britain paid for certain American slaves cast upon her West Indies by shipwreck and freed by the authorities; but, after she had declared freedom in all her possessions, she refused compensation in all such instances. Of the many complicated cases, that of the *Creole* was the most famous and produced the most voluminous diplomatic correspondence.

Sailing from Virginia to New Orleans in the legal coast-wise trade the *Creole* was seized by seventeen slaves whom she carried. Killing one of the owners, the slaves turned the vessel into Nassau, where the British authorities set at liberty those not directly connected with the murder. Some State Legislatures demanded war upon Britain if she did not immediately return all the slaves to their surviving owner. Resolutions were offered in Congress that when a ship enters the high seas it is no longer subject to the slave laws of a State, but is under the United States control; that slavery can exist only by municipal (State) law; that consequently the cargo of the *Creole* violated no national statute in resuming their liberty. The resolutions were cut off without debate, and Giddings, the mover, was censured. A somewhat similar controversy with Spain arose over the *L'Amistad*. The vessel was seized by its human cargo and eventually carried into Connecticut. The black men were demanded by the Spanish consul as murderers, by their owners as slaves, and by the general Northern public as free men who had simply killed those oppressing them.

The Supreme Court decided that they were free because they had been kidnapped from Africa and did not come within the provisions of the treaty with Spain for the restoration of property.

This matter of the coast trade became more important as time passed. The African source of supply being more or less interdicted, the surplus labour in the border States was carried to the Gulf States, creating a coast trade of no small proportions. One coasting vessel, of which evidence remains, carried 164 slaves, another forty-five, and another seventy-eight. Was the United States bound to protect slave property on the high seas as upon the land? The Constitution was silent upon this point. There was only the implication that protection extended naturally over whatever sphere of influence the Government covered. It was clearly manifest to the slavery interests that additional protection must be guaranteed to their property both on land and sea, if the Abolitionists continued their agitation. Against the charge that the slavery interests were collected into the "slave oligarchy," which exerted such influence from 1840 to 1860 in national affairs, the Southern man could well plead self-defence if justification were needed.

A wide diversity of opinion existed among the Abolitionists themselves concerning the part they should take in national politics. This is frequently a mooted question in reform movements. An appeal to the ballot seemed the proper recourse in the opinion of Birney, Gerrit Smith, Stewart, and others. They could not vote for Van Buren because of

Democratic subservience to the so-called "slave oligarchy" of the South. Neither could they favour Harrison, because he had assisted in the attempt to reopen Indiana to slavery after it had been closed by the Ordinance of 1787. They formed a third party and nominated for the Presidency James G. Birney, who had freed his slaves in Kentucky in 1834. Garrison and Phillips, with their followers, had developed the "non-resistance" theory, believing that their duty was performed in exposing the iniquities of slavery and leaving the rest to Providence. Some of them held that they committed sin in voting under a government which recognised slavery and which was largely under the influence of the slaveholders. They denounced "the folly, the presumption, the almost unparalleled infatuation" of the other faction in organising a third political party.

The radical men and women making up the Abolitionists embraced reformers of all kinds. Some advocated woman's rights, others anti-monopoly, and a few the suffrage for criminals. There were also promoters of temperance, communism, vegetarianism, Fourierism and similar agitations in this seething caldron. Those who opposed political activity were rejoiced at the small showing made by the Abolitionists in the election of 1840. They polled one popular vote to every 182 cast by the Whigs and one to every 161 cast by the Democrats. Interference with slavery in a State evidently did not appeal to the masses. The sentiment of home rule was strong. The ethical aspect of slavery, the

THE DAWN OF WOMAN'S RIGHTS

A contemporary burlesque on the woman-suffrage reform of 1850.

one upon which the Abolitionists depended, was too abstract. The concrete soil of Missouri had brought results. Manifestly the Abolitionists must continue their agitation with small effect, gradually converting public thought to their views, until another contest over a concrete territory would bring large results.

CHAPTER VII

THE WHIGS AND NATIONALISM

IF Jackson and his successor, Van Buren, had been moved in their opposition to the paternalistic activities of the Union by a desire to sustain the dignity and respect of the States unimpaired, they destroyed by their efforts that which they would have preserved. They insisted that all projects not strictly national in character should be undertaken by the States most interested. They failed to see that the popular demand for these improvements would cause the people to exhaust their limited resources and then, instead of abandoning their works, plunge themselves into debt to complete what they had begun. They also failed to appreciate the resulting effects upon the States when these obligations could not be met. Bankruptcy, repudiation, or national assistance must be the choice.

Thrown upon their own resources by Jackson's attitude, the States entered rashly upon an extensive scheme of transportation improvement, based almost wholly upon credit. Railroads, canals, turnpikes, river improvement—every recognised form of work

of public benefit was voted bonds by various State Legislatures. Illinois, a State just at this time in the process of being peopled, may be taken as an example. In 1837 and the two years following a total of $15,230,000 was voted for building fourteen hundred miles of railroads, for clearing rivers, making a turnpike, and digging a canal—all to be constructed within the State. To insure complete satisfaction, sums for waggon roads and bridges were given to those counties through which none of the improved ways was planned to pass. The total appropriations amounted to a debt of five dollars upon every inhabitant of the State in addition to the existing debt. In 1840, the governor reported that the State debt would soon reach $21,000,000; that the annual interest at present was $800,000; that the annual State income was $200,000; and that not a mile of the projected railways or canals had been completed.

The case of Illinois was not exceptional. It was a time of speculation and madness. Cities were plotted on paper in the wilderness. Fictitious values ruled. Within six years the real estate in the city of Mobile, Alabama, rose in estimated value from one to twenty-seven million dollars, and fell in the next nine years to eight million. Country as well as city felt the "good times." During the year 1836, public lands to the value of five million dollars were sold in the State of Illinois alone, nearly altogether on the credit system. Very little hard money was in circulation. The National Government by refusing to accept any money except specie had driven the coin into hoarding-places.

The panic of 1837 scarcely sobered the infatuated people. They borrowed wherever possible, especially in England. By the year 1840, their creditors began to be urgent. The aggregate of the State obligations was not far short of two hundred million dollars. New York owed twenty-five million and Ohio nineteen million dollars. Wealthy and populous States like these could bear the burden; but the debt of Maryland, for instance, was nearly equal to one-tenth of all her taxable property. These debts represented State bank bonds as well as bonds issued for building railways, canals, and turnpikes, together with stock issued to pay for the improvement of rivers. Large cities had become heavily involved for city improvements, including water, paving, and the like.

A large share of this debt was held in Europe. Speculation in American securities had been active in that quarter. Quotations were posted daily in London and Paris. Speculators discussed the prospective merits of "Baltimore City sixes," or "Mississippi fives sterling," or "Texian sixes." When the States began to default on the payment of interest on these bonds, loud complaint was heard among the foreign holders. Not only the States and cities, but the people themselves suffered from the financial stringency. In 1843, in the State of Illinois alone, 1574 individual petitions to obtain the benefit of the Bankrupt act were on file.

Being apparently hopelessly involved, certain of the States began to talk about the right of repudiating a debt. Men freely quoted Thomas Jefferson's

saying that one generation had no right to borrow money of a foreign country and place such an obligation on the next generation. It was said that the Union had taken from the States the resources of the public lands and the customs. Nothing was left them but direct taxation. Maryland passed a stay law against the collection of debts. Mississippi openly repudiated some bank stock on the pretext that her action in issuing it was unconstitutional. Leading statesmen raised their voices against the popular demand. They deplored the lowering of the standard of public moral obligation. "Tax yourselves" was their admonition. It was the familiar contest between the borrowing and the lending classes.

Biddle and his fellow bankers of Philadelphia claimed that the Union could coerce the States into the payment of these debts. The clause of the Constitution prohibiting a State from impairing the obligation of contracts, it was claimed, was sufficient warrant. Others held that the President through the Department of State had the power to press the claims of foreign people upon a State in the same way that he demanded payment of sums owed to citizens of the United States by foreign States. This would have been radical State coercion. The suggestion of Federal interference was received with great indignation by the public. The citizens of Coles County, Illinois, assembled in mass-meeting, resolved to pay no heed to any decision of the Supreme Court involving the liability of a State for debt.

A proposition much more acceptable to the masses soon gained favour. Pointing to the assumption of the debts of the States in 1791 upon Hamilton's suggestion, many advocated the advance from the United States Treasury of a sum sufficient to pay the State obligations. Notwithstanding their fear of the encroachment of the Union upon their reserved rights, the States would, in this way, become recipients of direct aid at its hands. In addition to the precedent of 1791, others were to be found in the assumption of the American claims in the Louisiana Purchase, in the act of Congress in 1836, relieving the villages lying within the District of Columbia from debt, and in the partial distribution of the treasury surplus to the States in the same year.

This suggestion was not at all in harmony with the condition of the national treasury. The public debt, so nearly extinguished in 1835, had risen to fifteen million dollars. A loan of twelve million was authorised, and not half had been subscribed for at the end of six months. Notwithstanding this situation of the public treasury, the Whigs were able to redeem their promise after coming into power in the election of 1840. The following autumn they passed a bill through Congress giving to the new States ten per cent. of the net proceeds of the sales of public lands and dividing the remaining ninety per cent. among the twenty-nine States and Territories, according to population. Clay counted it a great victory that he should be able to secure the passage of practically the same bill which President Jackson had vetoed eight years before. It was a strange re-

versal of the old order of things when the Democratic or particularist party was attempting for eight years to keep the States from receiving the benefits of gifts from the national treasury. It was an equal reversal to see the Union party of Clay and Webster seeking to confer these benefits on the individual States.

The Whigs were able to redeem in this manner one of their many pledges made to the people, who had thrown the vetoing Democrats from power in the recent election. But the distribution was of little material aid since it became inoperative the next year owing to an increase in the tariff rates. This agreement had been necessary in order to secure the passage of the distribution bill. Few of the remaining pledges could be redeemed. In order to relieve the people from their distresses, the Whigs had pledged them not only the distribution of the land sales proceeds, but also a third United States bank to supply a stable paper circulation, the passage of a national Bankruptcy act to relieve the hundred thousand debtors in the United States, and especially no more presidential vetoes to rob them of their just due.

The Whigs themselves were responsible for the obstacle which unexpectedly interposed between their promises and the people. By one of those whimsical nominations for the Vice-Presidency, of which parties have been so frequently guilty, they had placed upon their ticket John Tyler, a Democrat by inheritance and association until his recent conversion to Whiggism. His nomination was

secured largely because he shed tears when Henry Clay failed to be nominated for the first place. The death of Harrison within a month after his inauguration made Tyler President. He soon showed himself a worthy descendant of "King Andrew" by withholding his consent to every bank bill which the Whigs could pass.

As if to alienate the people still more from the Whigs and give the lie to their claims that they would put an end to executive assumption, Tyler made himself obnoxious to the common people of Rhode Island, who complained of national interference with the rights of a State. In the spring of 1842, three commissioners arrived at Washington, sent by the Governor of Rhode Island to claim national protection pledged in the Constitution to each State against domestic violence. The days of Daniel Shays's rebellion seemed to have come again. The two uprisings, more than half a century apart, bore striking resemblances. The people had again risen to oppose the authorities, to obtain what they conceived to be their rights as citizens of the Republic. Unlike the larger number of the States, Rhode Island had never framed a constitution, being satisfied to live under the amended colonial charter of 1663. It required the ownership of real property to vote and hold office.

Democracy seemed not yet to have come into her own in Rhode Island. The non-property-holders resolved to rebel against the ruling class. The latter, alarmed by the public feeling, called a convention and framed a new constitution containing

some of the demanded reforms, but with the suffrage still restricted. Only freeholders were to be allowed to vote on its adoption. So divided were the landed people that the new constitution was lost. Meanwhile, the landless faction called an unauthorised convention, and drew up a new constitution, allowing the ballot to every white male citizen over twenty-one years of age. Preparations were made to replace the regular government with this reformed administration. Thomas W. Dorr was inaugurated as head of the "people's government."

Both factions appealed to President Tyler. He recognised the constituted or "landholding" authorities, but took the stand that he could interfere only when the civil power of the State was exhausted. The landholders' government succeeded in driving Dorr from the State and dispersing his followers. Having failed to enlist the sympathy of Tyler, they appealed to the people of the neighbouring States against the "hired soldiery of the United States." Tyler strengthened the Federal forces in the vicinity, but had no occasion to call them into active service in the State. A general understanding was brought about that a new constitution, with an enlarged right of suffrage, would be framed at once; the disturbances in Rhode Island and the neighbouring States died out; and intervention of the Federal authorities was not required.

The ill-feeling existing between President Tyler and his party introduced into Congress a remonstrance from the people of Rhode Island against Tyler's interference. Those of the party who had

deprecated Federal usurpation tried to show that the Federal authorities had prepared to invade a State of the Union. Tyler insisted that he had acted entirely within his right and duty in supporting existing authority. The important fact in history remained that it was a Northern instead of a Southern State that was to be coerced, and that the President who was prepared to meet the emergency was not a Northerner but a Virginian.

As time went on, the breach between the accidental President and his party widened, while the *rapprochement* between him and his first love increased. The Democrats welcomed him back into the fold, proclaiming him as good a Jacksonian as Jackson himself had been. Before the close of his term of office, the Whig program was hopelessly lost and the Democrats were assured of a return to national control. The large hopes and views entertained by the Whigs for the internal development of America had vanished. Nationalism must give way once more to particularism in the swing of the pendulum. Even if the party had been in accord with the President in other matters, the Texas question alone would have proved fatal to the unnatural alliance of Tyler and Whiggism. The Texas annexation is the most typical of the various methods used by the United States in its territorial expansion. Not that it is peculiar to Americans: it is the old story of a people possessing the Saxon land-hunger and the Saxon instinct for trade. Spain had endeavoured for years to keep American traders out of her Mexican possessions. When she erected

barriers along one route, the adventurous trail-makers created another.

Mexican independence and the birth of the Mexican republic in 1820 were hailed with joy by the Americans, because it was to be supposed that intimate commercial relations would prevail between the two republics. Yet the instability of the new government and the remarkable penchant for revolutions delayed a commercial treaty between them for eleven years. During the first portion of that period, the republic of Mexico, wishing to people the fertile provinces of Texas and Coahuila, gave large grants of land to various *empresarios*, or contractors, who planted colonies within them. Some of these promoters were from Europe, but the larger number came from the States and recruited their colonies in the region nearest to Texas. Tennesseeans, Louisianians, Kentuckians, and Missourians migrated by scores and hundreds to build towns and to establish plantations in the wonderful land of "Texas." The old-time glamour of the South-west, the glamour which had fascinated men from Pizarro to Aaron Burr, exercised its spell once more. "Gone to Texas," was a slang phrase of the day.

Many of these migrants were slave-owners, who found the soil well adapted to the cultivation of cotton. The contractors and settlers who came from Europe refused to employ this kind of labour; but from the beginning they were in a hopeless minority so far as numbers were concerned. In the old state of Mexico, negro slavery had never gained

a strong foothold. Her soil was better adapted to small farm lands. No crop made slavery as profitable as cotton and tobacco made it in the United States. The character of her people did not conduce to slaveholding. The system of peons was a kind of substitute. As a punishment for the Spaniards still residing in Mexico, as well as for certain local reasons, the president of the republic in 1829 proclaimed the abolition of slavery in the entire domain. At this time probably fifteen thousand Americans had settled in Texas and the slavery system was well established in that province. The abolition proclamation was the beginning of a dispute between the province and the republic, which ended in a Texan revolution in 1835 and the establishment of the independent republic of Texas. Two years later, the United States as well as four leading European powers had recognised the new-comer.

One of these was Great Britain. At this time she was in the midst of her world agitation for the suppression of the slave-trade and the emancipation of the slaves. She used her influence in Texas to this end. The United States suspected her of a more selfish purpose to be accomplished ultimately. Texas could not be expected to remain permanently an independent nation on such a scale. Britain, as well as the United States, appreciated this fact. With British Canada on the north and the British West Indies on the south-east, with the British claiming Oregon on the north-west and British intrigue in Texas on the south-west, the United States seemed likely to be encompassed by her European rival in

the New World. When Mexican California touched British Oregon, the United States would be shut completely from the Pacific coast.

The Democratic party had been the territorial expansion party. Northern partisans forgot this historic fact when they attributed the longing eye which the party cast upon Texas solely to the desire to extend the domain of domestic slavery. It was useless for Southern writers to point out that new slave territory would increase the price of slaves and the production of cotton, both of which would injure instead of being a benefit to the slaveholding States. Northern spokesmen in reply called attention to the saying current in the South in 1820 that if slavery was to be curtailed by a line on the north, it must look to the south for room. Certain Southern writers attempted to prove that the annexation of Texas would create a demand for slaves which would drain this species of labour from the border States, leaving one or more of them to become free States and thus compensating the Northern section for an addition to the slave section. The political balance of power had been so carefully guarded that an addition to either section became a matter of concern to the other. The Whig strength lay in the extreme Northern States and the Democratic strength in the remotest States of the South. Northern Democrats could agree with their Southern brethren in favour of taking Texas into the Union in order to save her from Britain; but Northern Whigs were impressed with the belief that Texas was an excuse for the extension of slave territory.

They were hopelessly alienated from their Southern brethren on this issue.

Tyler showed his former Democratic proclivities by falling in with the annexationists. He offers a marked contrast to his predecessor, Van Buren, a Democrat, who refused a proffer from Texas to join the Union. The one was a Virginian, the other a New Yorker. Party affiliation in both cases had given way to sectional animus. By the alienation from their President, the Whigs, the avowed nationalists, were placed in the position of opposing an addition of territory, the most stimulating of all national actions.

From time to time in his annual messages to Congress, Tyler described the progress or delay in collecting the long-standing claims of American citizens against Mexico. He suggested that some action be taken to end the attempt of Mexico to resubjugate Texas. When representatives of Mexico hinted that the annexation of her former province might be a sufficient cause for hostilities, Tyler declared that "the representatives of a brave and patriotic people will suffer no apprehension of future consequences to embarrass them in the course of their proposed deliberations." At the same time he promised that the Executive would discharge his "whole duty to the country."

He performed that pleasant duty when, with Calhoun, who had taken the place of a Whig in Tyler's Cabinet, he arranged a treaty with Texas for her addition to the American States. He declared the whole Texas question was narrowed down to the

simple proposition whether the United States would accept her or force her to seek refuge in the arms of some other power. This was the goblin which had been brought out for nearly every addition to the national domain. "If we do not take her, some European power will," always proved effectual. The vote of the Texan people themselves, eight years before, had stood 3279 for annexation with the United States to 91 against. The number of Americans in the State had been greatly augmented in the meantime. The danger that Texas would take refuge in the arms of another nation was not sufficient to counteract in the minds of many senators the danger of national dishonour in robbing a sister republic of a portion of her domain. Tyler's annexation treaty of 1844 was rejected by the Senate. Undoubtedly party alienation from him was largely responsible for the action.

The popularity of Clay might have retrieved the Whig disasters in the impending election if Clay could have set himself right with both North and South. Sectional reconciliation was as impossible with Clay as it was with his party. When he declared himself in favour of annexing Texas, he alienated many of his Northern followers. When he said it must be done without in any way impairing the national honour, he lost the confidence of the Southern and Western people, who thought annexation fully justified and could not see in it any danger to the national character. The defeat of Clay by Polk seemed to Tyler and Calhoun a justification by a majority of the people of their policy

toward Texas. Annexation never fails to win in a popular election.

The Democrats brought forward the Monroe doctrine as a bar to British design. The raising of the British flag over Texas would be equivalent to colonisation on American soil. The annexationists compared Texas, struggling for freedom, to the American colonies asking aid such as France had given to them in their need. How could aid be extended to Texas more advantageously than by taking her into the fold? There were some minor differences of opinion as to the manner in which annexation should be accomplished. States had hitherto been admitted, with the possible exception of the earliest ones, by an "enabling" act under which a State constitution was formed. In that case the only criterion was that her constitution should contain nothing repugnant to the Federal Constitution or laws. Others thought Texas could be annexed only by degrading herself to a Territory, since States were commonly created from Territories. They pointed to Louisiana and Florida, reduced to a territorial condition after annexation. Manifestly Texas never would consent to this. Against these theories was placed the fact that Texas was peopled largely by Americans, fitted for self-government without the preliminary stage of a Territory.

The ratification of a treaty requires a two-thirds vote of the Senate. Annexation by this method had failed in 1844. But a majority vote could pass a joint resolution authorising the President to negotiate with the independent State of Texas as an

equal power, arranging for her annexation on the principle of taking another partner into the compact. This impairs the theory that the Union was a sovereignty antedating any form of confederation. The original sovereignty could not possibly have embraced Texas. But the Democrats cared little for the Unionistic theory. A resolution authorising Tyler to negotiate in the manner indicated passed the House by a vote of 120 to 98 and the Senate by 27 to 25. It was purely a party vote, the ayes in the Senate being twelve from the North and fifteen from the South, and the nays twelve and thirteen respectively. Three Whigs voted with the Democrats, two of them being consequently read out of the party.

Taking advantage of this permission, Tyler dispatched a commissioner to Texas, who secured the assent of the republic to the proposition. Since Polk would be the next President and the Congress would be Democratic, annexation was practically complete. In this manner Tyler snatched the honours from his successor. The Whigs were beaten, the South had added to her strength in Congress, and slavery had gained a new territorial lease of life. Only the anti-slavery effort to gain some part of the State for freedom and the threats of Mexico to retaliate remained to be dealt with.

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CHAPTER VIII

WAR AND TERRITORIAL EXTENSION

LIKE the Louisiana and the Florida additions of territory, Texas brought with it complications resulting from uncertain boundaries. After Tyler's negotiations, the actual admission of Texas by act of Congress was easily accomplished. The vote in the House showed 141 to 57 and in the Senate 31 to 14. The opposition in both branches was confined to the Whigs and Democrats of the Northeastern States. Not one vote of this character came from a State south of Maryland, and only one from that State. One Senator and two members of the House from Indiana voted against the admission of the new State. Otherwise the States west of Ohio were in favour of the action. The West and the South were harmonious, as they had been since the navigation of the Mississippi first bound them together. Only the development of the railroad could sunder those ties, as the seceding States were to ascertain to their sorrow in later times.

The minority, although not large, was militant and resourceful. Convinced, as many of them were,

that the addition of Texas was part of a program for the territorial extension of slavery, they were determined to deprive its promoters of the expected benefit, if any manner of doing it could be found. Geographically, "Texas" meant the ancient Spanish province, or a portion of the joint Mexican State of Texas and Coahuila; or it might mean the State of Texas at the time she declared independence; or it might mean Texas with her boundaries extended as a result of the war with her former owner. The first and second stages involved no definite bounds, being a strip of land along the Gulf of Mexico and extending indefinitely into the interior. The independent State of Texas, as first formed, probably did not extend north of the east and west trend of the Red River. But an expedition made by the Texans towards Santa Fé, although unsuccessful in its military aspects, enabled them to claim the Mexican province of New Mexico and a strip as far north as the northern boundary of the present State of Nevada.

New Mexico was free soil, as Texas had been before her new masters re-introduced slavery. The first thought of the anti-slavery contingent was to draw a compromise line across the new accession of Texas as had been drawn across the Louisiana Purchase. The natural location for such a dividing line was the boundary between Texas and New Mexico. This partition would give the latter province to free soil. It was so unproductive and the number of slaves it was likely to demand would be so small an offset for those in fertile Texas that this

suggestion received small support. When the joint resolution authorising a proposal of annexation was pending in Congress a New Hampshire Democrat, Hale, offered an amendment providing for a line to be drawn north-westwardly through the State, beginning at the Gulf. This would divide Texas into two equal parts, one to be free and the other slave soil. Being defeated on this proposition, a Tennessee Whig, Brown, attempted an amendment that Texas should be divided into four equal States, slavery being prohibited in those parts north of the Missouri Compromise line and the people of the proposed States south of the line being allowed to choose between coming in slave or free. Although adopted by the Senate, the proposition was opposed by the radical anti-slavery men lest making free that portion north of the line might imply that the part south of it should be slave. They were unwilling to abandon hope of making it all free, as it had been under Mexican ownership. But the binding effect of this amendment was nullified by another which was attached to the bill, giving the President an alternative of negotiating with Texas without any conditions. Quite naturally, Tyler chose the latter method. Apparently defeated in every attempt to save Texas or any portion of it from the slavery interests, those opposing the Administration awaited the next step in what they thought a definite plan to gain more soil for slavery. The formal withdrawal of the Mexican minister from Washington and the complete severance of diplomatic relations indicated that Mexico was preparing to execute her

threat of war if Texas should be annexed. Evidently the next act in the program would not long be delayed.

Even before the annexation of Texas, the relations between Mexico and the United States were far from harmonious. They had similar forms of government; but forms are not so strong as inherited traits and ideals. The people of the two republics were almost antipodal among civilised nations. The temperamental differences between the Northern and Southern sections of the United States were somewhat akin to those existing between tropical Mexico and temperate United States, although magnified many times. Yet the dissimilarity between the sections was not comparable in degree with those prevailing between the two countries. The inhabitant of the Northern republic manifested little patience with the procrastinating tendency of his brother of the warm climate. The latter, it is true, exhibited a certain activity, but it could be called forth only by a revolution or the prospect of one. The almost reverential regard for government, inherited by the American from his British parent, was unknown to the Mexican, who had not been permitted to share many functions of government with the mother country, Spain. Having his ideal of self-government fully fixed, the American was inclined to be intolerant with any modification of it by another, especially if it interfered with business. To the Mexican mind an occasional revolution was the highest form of enjoying a free government. To the American mind, it showed a lack of capacity

for its privileges and a condition bordering upon anarchy.

The quarter of a century which had elapsed since the independence of Mexico was one long demonstration to the American of the Mexican lack of qualification for self-government. Church and State were so intermingled that the original revolution against Spain had partaken largely of a religious nature. The clergy themselves were divided between the High Church dignitaries and the poor country priests, the latter exercising a strong control over their parishioners in both spiritual and political affairs. From the beginning, Mexico was never a republic in the Saxon interpretation of the word. Ministry "pronounced" against ministry, or usurper "pronounced" against usurper, the chief requisite of success being money to carry on the resulting campaigns. No less than thirteen revolutions could be counted during these twenty years. An internecine war arose frequently between military leaders and the church factions, precipitated by the attempt to secularise and sell the church property for the benefit of the mutable national treasury. Still another dissension grew out of the attempt of the Church to suppress the order of Free Masons in the republic. Few Americans had entered Mexico by 1827, yet the action of the existing government in expelling all foreign merchants seemed to the United States as an infringement on the rights of a neighbour, especially an expanding and a trading neighbour.

Although the ruling class of the Mexicans proper

was composed of Creoles and the higher class of Indians, they could not be divorced in the American mind from Spaniards and Spanish methods. They had no industries of importance and they seemed to desire no trade. The attempt to bar American traders was responsible for the beginning of the accumulating American claims against Mexico, which were the subject of a long series of negotiations. It must be confessed that some of the agents sent by the United States to collect these claims conducted themselves as if they were dealing with an inferior people. Their manner often verged upon bullying. They claimed that the usual methods of business were valueless in Mexico. A promise to pay made by one government was likely to be repudiated by its successor the following day. Distracted by revolutions and commanding only an empty treasury, Mexico might have won the sympathy of the people of the United States but for the underlying conditions described above. The inherited antagonism between Saxon and Gaul will always be found in a final analysis. It should also be said that the action of Mexico in abolishing slavery was extremely irritating to the slave interests which at this time controlled the policy of the American Republic.

The dismemberment of Mexico was calmly considered by the European powers after a few years witnessing her attempt at self-government. Agents of both France and Britain watched each other narrowly, yet always conscious that the expanding United States was more likely to take the initiative

than either of them. The defiant manner in which Colonel Frémont, a United States officer on an exploring expedition, traversed the Mexican territory of Upper California in the course of his Rocky Mountain explorations would scarcely have been sanctioned by an Administration or a party unless labouring under the expansion fever. Neither would it have been tolerated by a government prepared to defend the integrity of its soil. The Santa Fé trail was almost monopolised by American traders, Mexico having ceased to protest through sheer helplessness. American settlers and traders were constantly passing into both New Mexico and Upper California in sufficient numbers to accomplish what had already been done in Texas. First colonise and then annex seemed to be the American program. The Americans themselves called it the onward march of progress and the fulfilment of a manifest destiny. The annexation of Mexico, the Oregon country, and Canada was calmly contemplated, and some enthusiasts placed Ireland next upon the list. That Mexico appreciated her danger is shown by the fact that she offered to acknowledge the independence of Texas provided that country would remain for ever unattached to any other nation. In this manner a barrier would be erected between the aggressive Americans and a portion of Mexico.

Many of the leaders of the impotent republic saw the trend of events and feared the inevitable. Depending upon their characteristic attitude of braggadocio, they repeatedly threatened that the annexation of Texas by the United States would be the

FRÉMONT'S HEADQUARTERS IN MEXICAN CALIFORNIA

signal for war. Annexation was accomplished and it remained to be seen whether the threat would be fulfilled. The Mexicans assembled a force at Matamoras on the west bank of the Rio del Norte, now the Rio Grande, but made no other hostile movement. General Taylor, who commanded the American forces on the Louisiana frontier, crossed into Texas two months after annexation and advanced to the Texas frontier at Corpus Christi, a town lying on the south side of the bay of that name and near the mouth of the Nueces River. His orders were to guard the frontier of Texas against the presumed invasion of the Mexicans.

Just precisely what were the limits of the revolutionary State of Texas will probably never be free from dispute. The Texans, by proclamation of 1836, made the Rio del Norte, now the Rio Grande, the dividing line between Mexico and themselves. But they had no other warrant for claiming this boundary. The Nueces had been the boundary of Texas when she was a Mexican province. Mexico assumed that the ownership of the strip of land between these two rivers could not have passed to Texas through any legitimate claim. The few people dwelling within it were Mexicans. Several posts of Mexican soldiers were stationed upon it. Taylor had orders not to molest these unless the main force of Mexicans should advance across the Rio Grande. After lying at Matamoras from May, 1845, to January, 1846, Taylor was ordered by Polk to proceed to the Rio Grande, which he did in March, with four thousand men.

The action of Taylor in advancing beyond the Nueces was criticised by the opponents of the Administration. They thought the United States should have refrained from approaching the disputed strip instead of entering it. To the Mexican people, Taylor's action appeared an invasion of their soil, an aspect which it has presented to many Americans since that time. Those who had inveighed most strongly against the growing power of the Executive might have been alarmed at Polk's action in thus virtually inviting war, if they had not been influenced by popular feeling which is usually in favour of war. England marvelled that one man should be permitted virtually to declare war, a power which belonged exclusively to Congress.

At the risk of tedious reiteration, one may here call attention to another instance of the balance between the theory of opposition and the fact of administration. The legitimate heir of the restrictive party was being plunged into nationalisation by the popular will. Polk saw, as every incumbent of his position has seen, the possibility of a second term of office. Knowing the fear entertained by many of the conservative members of his party lest the centralisation of power in the national Executive had reached the danger point, Polk was yet unable to resist the temptation to gain popular gratitude by defending the claim of Texas to her utmost limits. It was a gratitude which he might have gained by annexing her but for the action of his predecessor in anticipating him. There was no doubt that "Texas" was the "open sesame" for the doors

of popular favour. The defenders of Polk will sustain his action on the ground that he was bound to protect the sovereignty of Texas, now a State of the Union, whatever limits she might claim. Establishing military posts along the frontier had long been a settled policy of the Government. Critics of Polk will continue to claim that he was moved by political considerations, by a wish to coerce Mexico into a better attitude through menace, by the thought of a probable war and the acquirement in that way of the long-coveted California, and by a desire to provoke Mexico into a war rather than enter upon one with Great Britain over the Oregon dispute.

Undoubtedly Mexico was sustained in her attitude by the approaching crisis of the long but friendly rivalry between Great Britain and the United States over the possession of the indefinitely bounded tract of land lying on the Pacific and known as "the Oregon country." The ancient boundary of the forty-ninth parallel of latitude from the Lake of the Woods to the crest of the Rockies had been decided upon in 1818 as the boundary between the two powers, leaving a "joint occupation" of the land between the mountains and the Pacific. This arrangement left the final decision of ownership open to negotiations, which would take into consideration priority of discovery. It would also be influenced by the number of settlers and the permanent improvements they had made.

Britain was decidedly at a disadvantage in this rivalry of nations. The Hudson Bay Fur Company

was a powerful and influential monopoly, but it was too far from the source of supply of immigrants. The Canadian movement across the American continent was not made under as favourable climatic or even topographic conditions as the march of the American people. The down sweep of the head of Hudson Bay, almost touching the northern shore of the Great Lakes, placed a band across the middle of the British possessions, separating the older portions from the newer. In 1845, when the American frontier was creeping into Kansas and stretching up toward the head of the Missouri River, the Canadian frontier was at the St. Clair River, east of Michigan. It had scarcely advanced since the War of 1812 was fought. The cause of its retardation is easily ascertained. The Hudson Bay Company flag waved triumphantly over the Red River valley where Lord Selkirk's establishment had once stood, as if to defy the agriculturists to advance and interfere with its trapping industry. The result was that the Canadians were hundreds of miles in the rear of the Americans in the rush for Oregon.

The foreign relations of the United States monopolised public attention about 1845. Oregon and Texas were the chief topics of the day. Local affairs were of secondary importance. The individuality of the States was being slowly merged into that of the Union. Sectional allegiance was replacing State allegiance. Ignoring local issues, the national political parties, fully developed again, concerned themselves with national issues. The modern nominating convention, composed of dele-

gates selected proportionately from the several States for that purpose, had been fully put into use in the presidential election of 1844. Ratification mass-meetings were invented as a means of arousing enthusiasm. Party platforms were regularly announced. That given out by the Democrats in 1844, demanded the "re-occupation of Oregon and the re-annexation of Texas at the earliest practicable period," as "great American measures." The party which annexed Louisiana contrary to the political tenets held in its infancy had become thoroughly committed through administration and popular demand to the policy of national territorial aggrandisement. The prefixes to the nouns in the declaration were designed to show priority of claims. The one implied that Oregon had been occupied by Captain Gray when he discovered the Columbia, by the Lewis and Clark expedition, and by the founding of Astoria. The other implied that Texas had been annexed as part of the Louisiana Purchase, but had been temporarily abandoned by John Quincy Adams in his negotiations for Florida in 1819.

The attitude of the United States at this time must not be attributed entirely to the political manœuvring of President Polk or to any slave extension policy of his party. National impulse was stirred as it had not been since the War of 1812. Whatever evils war brings in its train, it is a powerful incentive to national feeling. The Democrats had cut short the Whig revival of the old Federalist measures; but in territorial acquisition and war they were calling into use two nationalising agencies

more powerful than those they had scotched. Those philosophers who compute periods of recurrence of the warlike spirit among people may find here an excellent example. The forty years of American peace had about expired. How much national prosperity and success induced the war fever is impossible to determine. Adversity never breeds a proud spirit. The boasting speeches of the "war-hawk" days were heard again in Congress about 1845. Polk's first annual message quoted the Monroe doctrine as the essence of American dominant rights on the continent. To England was laid down the challenge "Fifty-four forty or fight."

The suggestion that the United States could lay a valid claim to the Pacific coast as far north as the southern limits of the Russian possessions, thus completely shutting out England, would never have been harboured at a less warlike time. It was purely a political cry; but it had a strong backing among the people. That the United States was prepared to fight England when she was fully occupied in concentrating her troops along the Mexican frontier and her fleet in the Gulf of Mexico was an equal absurdity. The "bluff and bluster" policy which Europe is prone to ascribe to American diplomacy is not without historic foundation.

The Democratic press of the day made light of the movement of General Taylor to the Rio Grande, pronounced his mission pacific, and declared his force to be too small for any alarm on the part of Mexico. It was said that Taylor showed no pomp and circumstance of war, but was quietly and peace-

ably taking possession of Texan soil. On the other hand, Taylor complained to the President that the force assigned him was too large for garrisoning a frontier. If there was a Democratic program, evidently the general of the army was not privy to it. Whether Polk anticipated war or not, that which every human probability would indicate soon occurred. A fresh revolution in Mexico prevented the reception of Slidell, the American minister, sent to Mexico upon her promise that he would be received notwithstanding the annexation of Texas. It is significant that Slidell was authorised to demand instant payment of eight million dollars indemnity for injuries to American traders and commerce, but that this sum was reduced to three million dollars after the United States had eventually assumed the claims. There had been no rehearing in the meantime. Slidell was also authorised to extend once more the offer of a sum of money for Mexican California. Unfortunately the Mexicans failed to appreciate these opportunities of alienating part of their domain. They displayed as much resentment as the Americans would have done if a national real estate agent had come to them from Mexico with a similar proposition advanced by his government.

When the Mexicans saw the American troops pass into the state of Tamaulipas between the Nueces and the Rio Grande, taking a position across the river from Matamoras, with guns actually trained upon that city, they assumed that the aggressive American was already within their gates. The story

of Louisiana, of the Floridas, and of Texas was about to be repeated. When Taylor blockaded the mouth of the Rio Grande, this suspicion seemed confirmed. A slight skirmish within the disputed strip between a detachment of Taylor's troops on a reconnoitring expedition and a small force of Mexicans opened the hostilities of the Mexican War, April 24, 1846. Nearly fourteen months had elapsed between annexation and war. Every day that the Mexicans failed to carry out their threats made the Americans bolder. Polk had at last decided to assume the aggressive. Congress alone has the right to declare war; but that Congress and the country at large would support the Administration no one doubted for an instant. Congress immediately authorised a call for volunteers, and on May 13th issued a formal declaration of war.

The progress of American arms in enervated Mexico was all that the most patriotic citizen could demand. The zealous advocate of war had enough national glory to satisfy him for a time. He lost sight of the basic weakness of the enemy. He saw only the opposing numbers. In no foreign war, as yet, has the American strength been put to the test. Beyond doubt the braggart spirit of the Mexican and the desire to show him that the American could fight were largely responsible for the war. The news of the feeble resistance offered to the advance of the American forces was therefore doubly agreeable.

The Whig party, being in opposition, would naturally oppose the war, but they foresaw the danger

MEXICAN VALOUR IN THE MEXICAN WAR

A contemporary print showing Gilbert Dudley, son of a constable at Newark, N. J., capturing two Mexican soldiers and driving them into the American camp.

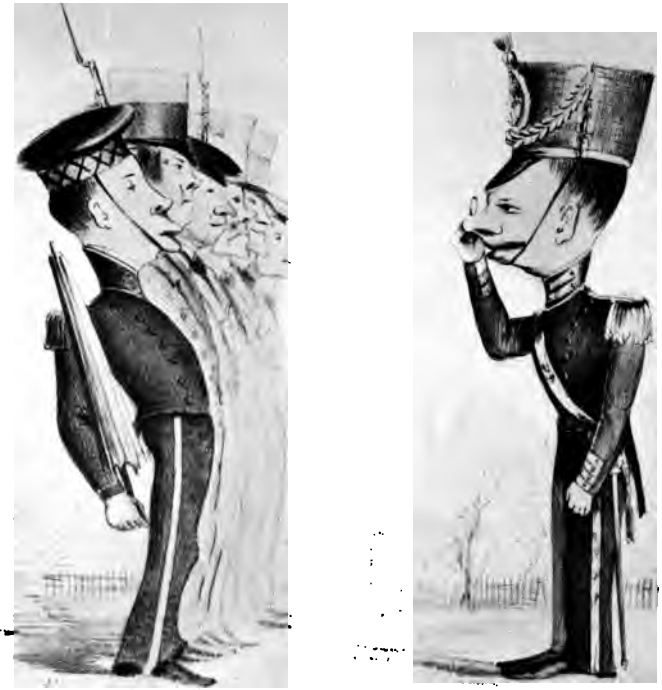
to the party in taking this line, and therefore contented themselves with opposing Polk's explanation of the causes of the war. Nearly every Whig member in the House placed himself on record as opposed to the preamble in the bill authorising the enlistment of volunteers, which began, "Whereas, by the act of the Republic of Texas, a state of war exists." In the two sessions held during the progress of the war, the Northern Whigs called upon the President to prove his assertion that war existed because American soil had been invaded. Their efforts met with as slight results as had those of their ancestors, the Federalists, in opposing the War of 1812. In the second session Abraham Lincoln, the only Whig member of the House from the State of Illinois, offered a set of resolutions asking Polk to inform Congress whether the spot on which blood was first shed was American or Mexican soil. His only reward was ridicule as the author of the "spot resolutions" and a questionable record which was used against him in the campaign of 1860 to show that he lacked patriotism in war times. A man in public life runs a risk in going counter to public opinion, and public opinion always supports a war until the burdens begin to be felt.

During the progress of the short war, California was not once lost sight of. Democratic newspapers began to insist that Mexico by her actions had forfeited her right to her extensive domain. Some radical editors wanted Mexico "wiped off the map." Less violent writers would be satisfied with her possessions lying to the west of the United States.

None were willing that she should go unpunished. In opposition to the despoliation of Mexico, two distinct protests were heard. One came from the Whigs, who would rob the Democrats of the prestige likely to follow a territorial acquisition. The other dissent came from the anti-slavery faction, who classed the annexation of California with that of Texas as part of the plan of Polk, himself a slaveholder, to satisfy the demands of his Southern supporters for an extension of slave territory. James Russell Lowell, in the *Bigelow Papers*, written to discourage the Mexican War, voices the sentiment of this opposition:

" Them thet rule us, them slave-traders,
Hain't they cut a thunderin' swarth
(Helped by Yankee renegaders,)
Thru the vartu of the North!
They jest want Californy
So 's to lug new slave-states in
To abuse ye, an' to scorn ye,
An' to plunder ye like sin."

The intentions of the Administration were soon manifest. No one had any doubt that the bill offered in the progress of the war to place three million dollars at the disposal of the President was intended to renew the proposition to purchase Upper California from the enemy. The province had been captured by American forces almost without resistance. The American flag had been raised at Monterey by Commodore Sloat and in the Sacramento Valley by Colonel Frémont. An army, headed by



"AS YOU WERE!"

A New York cartoon of 1846 intended to discourage enlistment for the Mexican war by burlesquing the volunteers.

General Kearney, had marched overland through Santa Fé without hindrances other than those incident to travel in unpopulated regions.

The three-million bill offered opportunity for the anti-slavery element to rob the war of its slavery spoils as they called them. A Democrat from Ohio, Brinkerhoff, drew up a proviso to the bill, which was presented to the House by another Democrat, Wilmot, of Pennsylvania. It is significant that Wilmot had voted for the annexation of Texas. He represented the Northern members of the party who were willing to acquire territory, but would make it free soil. The proviso specified that the anti-slavery clause which had devoted the soil of the North-west Territory to freedom should be incorporated in any treaty made with Mexico for the acquisition of territory. Sectional ties cut ominous lines across political parties in the vote on this "Wilmot proviso," as it was popularly called. Two Kentucky Whigs alone favoured it of the entire representation from Southern States. Whigs and Democrats from the free States rallied to its support, with the exception of four members. Among these was Stephen A. Douglas, a Democrat from Illinois, whose influence was constantly growing in national politics. He was willing to apply the proviso to all lands lying north of the extension of the Missouri Compromise line, but nothing more. The united strength of the Northern contingent in the House was sufficient to save the proviso from being laid upon the table. If at all united, the Northern members could outvote those from the opposite section. The bill came into

the Senate just before adjournment and was easily kept from a vote.

During the ensuing intermission of Congress, the proposition was fully discussed. Cass, of Michigan, represented those who agreed with the opinion held in the South that slavery was a peculiar institution, subject to local regulation; and that the people of the States to be created hereafter should be allowed to decide this matter for themselves. This was the theory afterward fully developed under the name of "popular sovereignty." Others advanced this theory to the statement that Congress had absolutely no control over slaves in the Territories. Their opponents pointed to the prohibition of slavery placed by Congress in the Ordinance of 1787 and to the pro-slavery agreement under which the cession of land south of the Ohio was made. An extreme point of view, held by a growing number, considered the States as joint proprietors of all territorial land. They thought that the Federal Government had no control over it except to "dispose of and make all needful rules and regulations" concerning it; and that in case any citizen of a State should be debarred from taking his property into this common land, his State was bound to protect him. This was a practical application of the theory of State rights against the Federal Union.

In the succeeding session of Congress, the Wilmot proviso passed the House by a small majority. But the Senate having voted the three-million appropriation without any condition, the House concurred and the free-soil advocates were apparently defeated

in securing any Mexican acquisition of territory for freedom as they had been defeated in Texas. The chief argument was one for which the war was directly responsible. It was contended that any conditions attached to the appropriation might embarrass the President in the peace negotiations. An appeal was made to patriotism to prosecute the war vigorously instead of allowing internal dissensions to encourage the enemy to make further resistance.

Many of these Whigs, who were now opposing the extension of slave territory and denouncing the plots of the Administration, forgot their attitude in the beginning of the war. That was the time when a stand should have been taken, not only against the pro-slavery element but for national honour and to avoid the charge of bullying a weaker nation. The motion to authorise the President to call for volunteers passed the House by a vote of 122 to 14. The negative vote represented these Northern States: Massachusetts, five; Ohio, five; and one each from Rhode Island, New York, Maine, and Pennsylvania. At this time there were 135 Northern Representatives to 88 from the Southern States. The final Senate vote brought out only two negatives: one from Delaware and one from Massachusetts. Eight Senators refused to concur in the preamble. If the Mexican War was begun for the augmentation of the slave power, the Northern members in Congress failed to show a strong desire to avoid it. One of the unfortunate concomitants of war is the cowardice of parties which prevents their opposing it lest they lose popular favour.

In accepting readily the verdict that the war was planned to extend slavery, one overlooks the geographic situation of California and New Mexico. They were in the direct line of westward expansion and trade. In 1840, the population of California included about seven thousand people of Spanish blood, seven hundred Americans, and two hundred of various European nationalities. Controlled by these were probably ten thousand domesticated Indians. The Spanish contingent was more attached to Spain than to Mexico. The Americans were attached to neither. Not a *real* of money was sent to Mexico by the collectors of customs. The Mexican tariff was disregarded. Each collector charged such rates as he deemed just. Coast trade was permitted regardless of Mexican laws. Not a Mexican vessel was ever seen in California waters.

Reasoning from kindred situations it is safe to say that California was destined to be added to the United States. The war gave the excuse. When Taylor was being dispatched to the Texas frontier, orders were sent to the American fleet in Pacific waters to be on the alert and ready to occupy California when the first gun was fired. The situation was much like that in the same waters in 1898, but there was no cable in 1846. From four to six months were required to send a communication to or from Washington. The orders sent to Frémont show clearly an intention on the part of the Administration to interfere with California. California must have been annexed with or without war in the near future. It was not altogether a war for the exten-

sion of slavery. It was a war for the extension of American territory.

Being satisfied with one war, the administration assumed a milder tone toward England. Negotiators from the two powers easily arranged a compromise by extending the dividing line of the forty-ninth parallel through the Oregon country to the sea. That part of Vancouver Island lying to the south of it was given to Britain. Instead of securing the Pacific coast as far north as the Russian possessions, which the party shibboleth demanded, the administration was satisfied with half that extent of territory.

The Southern people looked upon the Wilmot proviso as a fresh evidence of a concerted attack being made upon them by the Northern people regardless of political parties. The guarantees of property in the Constitution, it was to be supposed, would be held as sacredly in the additions to territory as in the original domain. But in their zeal to crush slavery the Northern people seemed to have lost all sense of justice. Even sectional rights were no longer considered. The attempt to make Texas or the lower portions of California and New Mexico free was as presumptuous in Southern opinion as if Southerners had tried by national legislation to introduce slavery into British Columbia if it should be annexed to the United States. The most alarming factor was the evident spread of this hostility. Fifteen years of Abolition agitation seemed to have done their work. The entire Northern people bade fair to be Abolitionised. They had already accepted

other heresies and fanaticisms. Free love, vegetarianism, and Fourierism had gained many converts among them. Millerites and "feet-washers" were hailed by them as kindred spirits. The level-headed Southern people had no inclination to harbour these fantasies, which were precisely of a kidney with Abolitionism. Such was the feeling of the Southern people in 1848, when the treaty of peace was signed with Mexico and the coveted territorial spoils of War assured.

CHAPTER IX

SAVING THE UNION BY COMPROMISE

IF the beginnings of the war with Mexico were peculiar, the negotiations which closed it were equally unusual. A treaty of peace was made by Nicholas Trist, a man who had never held a higher position than a clerkship in the War Department; it was made at Guadalupe Hidalgo, far within the enemy's country; and it was made by Trist after he had been discredited and recalled by President Polk in order to discipline him. His first attempts at negotiation showed altogether too much sympathy with the Mexicans and a deplorable uncertainty of conviction that the war had been begun by them. Nevertheless, Polk sent the treaty to the Senate, "uninfluenced by the exceptionable conduct of Mr. Trist," as he said. In addition to providing for the termination of the war, the treaty set a new boundary line between the two republics. It ran along the Rio Grande, making good the boundaries claimed by Texas beyond the Nueces River. The disputed strip now belonged to Texas and consequently was within the United States. In 1850, it contained

less than ten thousand whites and one hundred slaves. In 1860, the number of slaves between the two rivers was only 313. Advancing up the river as far as the southern boundary of New Mexico, the line turned toward the west instead of east, as it would have done if only Texas were to be added. Rounding New Mexico on the westward side, the new line passed down the Gila and Colorado Rivers to the old Mexican boundary line between Upper and Lower California and thence to the Pacific. It transferred both Upper California and New Mexico to the United States. "The extensive and valuable territories ceded by Mexico to the United States constitute indemnity for the past," said Polk. "They constitute of themselves a country large enough for a great empire."

"In consideration of the extension acquired by the boundaries," the United States agreed to pay the Mexican republic the sum of fifteen million dollars, and to its own citizens three million dollars of claims. Texas, as admitted, contained 389,795 square miles, nearly one-half as much land as had been acquired in the Louisiana addition. California and New Mexico added 523,802 square miles to the national domain, and Oregon 288,689 square miles. These three additions increased the territory of the United States over a million square miles. The acquisitions, made within seven years, added a territory three-fourths as large as the entire domain at the time. The fear of being shut out from the Pacific was ended. Over eleven hundred miles of frontage on that water were now within the limits of the United

States. The thirteen hundred miles on the Atlantic were balanced on the western side. The quadrangle of the continental United States was completed.

These magnificent spoils of war, five hundred thousand square miles in extent, should have been a cause of national rejoicing and mutual congratulation; but instead they became a source of dissension through the omnipresent slavery issue. The new territory lay to the west of the Louisiana Purchase, embracing in whole or in part the present New Mexico, Arizona, Utah, Nevada, and California. If the Compromise line of 1820, which was the dividing line between slave and free territory as far as the summit of the Rocky Mountains, should be extended across the new possession to the Pacific, fully three-fourths of the accession would be on the free side of the line. To the anti-slavery people there seemed a kind of retribution in the fact that three-fourths of the spoils gained in what seemed to them an unholy war, waged to obtain fresh land for slavery, should be on the free side of an extension of the demarking line. They assumed that the line would be extended, but in the meantime were resolved to make an effort to obtain the whole for free labour. The pro-slavery element was as fully determined to see no further barrier erected within the United States across which a man might not take his property.

Regardless of these differing opinions, one fact was patent to all, that some kind of a government must be devised immediately by Congress for a region so fully populated as was this old Spanish

California. Both sides were too impatient to leave the matter for future decision, as had been done in the Louisiana addition. Mexico had held the western part as the province of Upper California and the eastern part as the province of New Mexico. The respective capitals were at Monterey and Santa Fé. A temporary military rule had been established over these provinces as the American invading army conquered them. Congress determined to continue these divisions, simply replacing the military by civic government. Immediately the question arose whether the territorial governments should prohibit or permit the use of slave labour. Slavery had been forbidden in both provinces under the Mexican proclamation of 1829 and the law of 1837. That slavery should be re-established in free soil, that the American people, boasting a civilisation higher than that of their Mexican foes, should thus turn back the hands on the dial of human liberty was extremely obnoxious to the opponents of the system. Neither side was willing to listen to arbitration. A proposition in Congress to submit the matter to the Supreme Court by instituting a suit was defeated.

As if determined to force the issue at this point, fate had added a second territorial cause to the national dispute. Oregon, whose acquisition through the peaceful art of diplomacy has been heretofore described, also needed some form of government. Border statesmen, like Benton of Missouri, hoped that climatic conditions might ward off the usual slavery discussion from Oregon. He tried to demon-

strate that the climate of that far northern region was unfitted for the crops requiring slave labour; that free immigration from Europe would supply the demand; and that Africans could not survive the rigours of a region as far north as Wisconsin and the Lake of the Woods.

Dix, of New York, voiced the sentiment and fears of the Northern opponents of slavery when he said that climatic conditions would be no guarantee, unless supplemented by congressional action. The movement of population, he declared, depended upon the desire for new lands, and some migrants would carry slaves unless prohibited, regardless of the warning of climate. It was thus natural for man to hope to overcome the barriers of nature. Even the presence of one slave would mean the possibilities of more. Calhoun spoke the new sentiment of the Southern people when he said that the number of slaves to be taken to Oregon was a secondary matter; that his section contended for a principle higher than the kind of crop and labour, which climate would permit. They demanded the right of every American to remove at will to any part of the United States and to carry with him his lawful property, including slaves. The Northern Democrats were divided between the conviction that opening a land so far north to slavery would be a geographical absurdity and the desire to aid their Southern brethren. They were represented by Stephen A. Douglas, who proposed to extend the Missouri Compromise line across the new possessions from the Rocky Mountains to the Pacific. This

was not acceptable to the South. Not only Oregon but the bulk of the Mexican addition would be free by this action. On the other hand, it would give to slavery only a small portion of the new acquisition. To the bill creating the Territory of Oregon, the Senate finally added, after an all-night session, an amendment copied from the Ordinance of 1787, prohibiting slavery and involuntary servitude within the Territory except as a punishment for crime. Small heed was given to the solemn warning of Calhoun that the action definitely divided the entire continent into a North and a South and that the latter must hereafter look to some means for its self-preservation. The House agreed to the amendment, and President Polk signed the bill in August, 1848, on the ground that Oregon would lie north of the line of 1820 if it had been extended.

The creation of the Oregon Territory, pledged to free labour, aroused the Southern statesmen to fresh exertions to gain a part or all of the Mexican addition for slavery. It was to be presumed that the free element would regard Oregon as a Northern addition, to be offset by a gift to slave labour. But an entirely new phase had been put on this California territorial question during the year 1848. For three centuries, the Spaniard had searched the New World for gold, had neglected the usual channels of development, and had subjected the natives to cruel treatment in his quest; but he had been scantily rewarded. Just after California had been lost to his descendants, chance threw the prize, richer even than the Spaniard's dreams, into the hands of the

ASTORIA IN 1811

Based on a print in Gray's *History of Oregon*.

conquering Americans. The Spaniard had headed visionary expeditions for the precious metal; the American found the treasure in the very prosaic but characteristic task of digging a ditch to carry waste water from the water-wheel of a sawmill.

Gold mining had been carried on about the Spanish missions in Upper California for many years past. Rumours of this industry had aided in attracting the few hundred adventurous Americans who came uninvited into the Spanish possessions before the war, and who remained notwithstanding Mexican protest. When the provinces passed into the hands of the United States, and Congress undertook the task of framing a territorial government for them, there were probably not over one thousand Americans within their limits. But before a frame of government could be agreed upon, the rush to the gold fields of the Pacific produced a population in Upper California larger than that of either Delaware or Florida. Having more people than some of the existing States, they demanded immediate statehood without the preliminary stage of a Territory. They drew up a constitution in legal form and manner under the encouragement of President Taylor, whose military skill had been largely instrumental in gaining the land in the war, and who, in turn, was made President by his war record. With more enthusiasm than regard for qualification, Taylor also advised the people of the province of New Mexico to frame a government and apply to Congress for admission as a State.

To add to these territorial complications, the

former independent State of Texas laid claim to enlarged boundaries at the expense of the province of New Mexico. She based her claims upon the extent of her bounds when a Mexican province and to certain attempts to conquer the province after she had gained her independence, as already described. Taylor denied these assumptions and was prepared to resist them at all hazards. He would restrict Texas to the land she actually occupied when she was a state of Mexico. A similar stand was taken by the anti-slavery element in Congress, who looked upon the addition of Texas as a part of the preconceived extension of slave territory and would limit her bounds in every possible way. The Southern faction as eagerly supported the claim of Texas.

These were some of the great problems confronting the Congress when it met in December, 1849, but they were not all. The growing dispute as to the authority of the Central Government to regulate slavery in the Territories brought a fresh demand for the exercise of that power in a place indisputably within its jurisdiction — the District of Columbia. The continued agitation of this subject by the Abolitionists seemed to have won large numbers to the idea. Since the retained portion of the District had been originally a part of Maryland, the slave code of that State had been adopted by Congress for the District. It was a mild code, as was that of most of the border States, where the slaves were chiefly house servants or employed in small farming under the immediate control of the owner. The hardships pertaining to a code for overseers were unknown.

Owing to the necessary presence at the national capital of a large number of planters at various seasons, quite a slave market had sprung up in that city. Virginia, the dependable source of domestic slaves, furnished the supply.

To the Southern mind, the existence of slavery, and even the slave-trade, in the District, was not unnatural, since it was surrounded by slaveholding States and fully fifty miles from the nearest free soil. To the Northern people, the District was national property, even if located in slave territory by a deal of politicians a generation before. They regarded it as subject to national control in slavery as in other matters of legislation. Northern sentiment thus balanced Southern interest. The Southerner thought the Northerner unreasonable because he brought to Washington the horses and carriages which he was accustomed to use at home, and yet wanted to deprive the man from the South of the attendant whose services were as indispensable. The principle of home rule had adjusted the national territory thus far, making half slave and half free, but it could not readily be adapted to the national capital held in joint ownership.

At various times, petitions and motions had made their appearance in Congress for prohibiting the trade and for abolishing the system within the District. Abolition writers claimed that free negroes, who fled to the national hearthstone for protection, were re-enslaved and carried to the auctioneer's block by the District marshal. The slave-owners charged these editors with enticing slaves to the

District by means of their presses set up within slavery lines under protection of the National Government. The mobbing of Abolition editors and the destruction of their seditious newspaper offices were not unknown in Washington, where agitator and slaveholder mingled as they did in no other part of the United States. The capture at one time of a body of refugees on the Potomac just below the city, presumably enticed from their labour by these Abolitionists, caused a mob in the city and produced general alarm throughout the country.

The pecuniary loss of the slave market at Washington would be slight, since it would involve simply a side journey to Baltimore or to Richmond, where slaves could always be had. The abolition of slavery within the District would probably be accomplished by just remuneration to the owners. But such an acknowledgment of the right of Congress to interfere with the institution in the District might be construed by the anti-slavery following as carrying a similar right in the Territories under national control. Calhoun had declared that Congress possessed no more power over slavery in the District than it did in the State of South Carolina; that slavery was a peculiar and local institution wherever it existed and not subject to legislation as other factors in American life.

It was not only in the District, so the Southern contingent claimed, that the Northern element connived at the escape of slaves and threw obstacles in the way of their speedy recovery. Increased trade and increased means of transportation between the

two sections had enlarged the number of runaway slaves. In addition to the growing number of railway lines being constructed between the North and South, the illegitimate "underground railway" was invented. Through city and hamlet, across fertile field and swampy ground, its numerous lines extended from slave territory to free Canada. Its "conductors" were volunteers from every rank in Northern life; its stations were the dwellings of all sympathisers with the black man's condition. Men honest in other particulars, men who would not knowingly deprive another of his property, conspired to hinder the slave-owner from recovering his runaway slave, because they did not believe that the black man was "property." The descendants of these "underground railway" managers, far from confessing any sense of shame, have been proud of their forebears, who broke the law of the land under the inspiration, as they claimed, of a higher moral law.

The Abolitionists as a class were looked upon with contempt in both North and South. They bore all the odium attached to reformers and meddlers, disturbers of the common peace. But the silent effect of their constant agitation was demonstrated to some extent in the increasing number of runaway slaves. Just before 1850, it was said in debate in the House, that the loss to Southern owners averaged not less than $200,000 annually. Appeal was made in vain to the law. The Act of 1793, passed in accord with the promise in the Constitution, permitted a requisition to be made upon

the authorities of a State for the capture and return of a slave, or an attorney was allowed to make affidavit before a justice of the peace and return a fugitive to his client. Congress amended the law from time to time to meet various obstacles, some thrown in the way of its enforcement, and others arising from changed conditions. But measures adequate for a rigorous enforcement could not be secured. It was proposed to compel a State governor or justice to honour a requisition or to hear an affidavit; to charge the officials of the State from which the negro had fled with the execution of the law, instead of leaving it to the officials of the State in which he was captured; and to prevent the release of arrested slaves on a writ of *habeas corpus*. These attempted reforms indicate the difficulties encountered in enforcing the law in the free States.

In order to prevent any abuse of the act, some States passed severe laws against kidnapping. If a slave hunter could not prove his claims, often before a court with prejudiced officials, he was liable to be punished under this charge. Pennsylvania, with its Quaker element, was especially opposed to the return of fugitive slaves and had passed several laws to prevent it. In 1837, Edward Prigg, an attorney for a Maryland slave-owner, caused the arrest of one Margarette Morgan, who had escaped from her owner in Maryland five years previously. Being refused a warrant by a justice of Pennsylvania, Prigg forcibly took her, with her child, born after she reached free soil, and returned her to her master. For causing the mother and child to be seized and

sent from the State, Prigg was convicted of kidnapping and the higher State court upheld the decision. By mutual consent the case was then appealed to the Supreme Court of the United States.

A decision in the case of Prigg *vs.* Pennsylvania was reached by the court in 1842. A majority of the justices decided that Congress was empowered to legislate on this subject; that a State law contrary to congressional action was null and void; and that the owner had a right to his property. But the Court also held that the officials of a State were not bound to enforce a statute of the United States. Although the decision sustained the law of 1793 in this particular instance, and left the woman and child in slavery, it practically destroyed its value. The law had no officials to enforce it other than those connected with the States. They were under no compulsion. Free State governors and justices were unlikely voluntarily to execute the national fugitive law. The decision immediately caused an increase in the number of State "personal liberty" laws.

The opinion was precisely what was to be expected from the changed complexion of the Court. The sovereign State must not be compelled to execute a national law. Yet the effect, as indicated above, would be to render the slave-owners powerless to recover their property until a new statute could be secured, which would place the execution of the law in the hands of national officials. Additional evidence was not wanting after the decision to warrant this prediction. Governor Seward, of

New York, refused to return to Virginia three white men who had aided a negro to escape. Their action constituted a crime according to the laws of Virginia, but was not in violation of the laws of New York or the United States statutes.

In retaliation, Virginia required all vessels leaving her ports to be inspected lest slaves were being carried away. This action, precautionary in the view of Virginia, was intolerable in the opinion of Northerners. The fine of twelve hundred dollars imposed upon Van Zandt, an Ohio farmer, for permitting some fugitives to ride in his waggon, and the legal battle over George Latimer, in Boston, made the anti-slavery people resolve to oppose a more stringent law for the rendition of fugitives. The failure to rescue Latimer by *habeas corpus*, writ of replevin, and other legal methods, caused Wendell Phillips, the Abolitionist, to curse the Constitution of the United States, which seemed to him to protect in every way the slave-owner and deny justice to the man of colour.

This was the condition of affairs which made the South firmly resolve to have a more efficient fugitive slave law and the North as firmly resolved to oppose it. State after State forbade its officers to execute the Act of 1793. "There stands the Constitution, a dead letter, and here lies the State legislation which has destroyed it," said Butler, of South Carolina, in the House, when making a summary of the various State enactments subversive of the Federal law. Yet South Carolina had no such ground for complaint as had the border States. They suffered most

from loss of their property. Of the 1010 cases of runaways reported in the *Tribune* for 1850, more than half occurred in Maryland, Kentucky, Virginia, and Missouri, the four border States. Delaware alone was reported to have lost one hundred thousand dollars' worth of this kind of property during the ten years preceding. Much of this loss could be attributed to Abolition connivance and Abolition literature. These agitators kept themselves in the free States and could not be reached by Southern State laws. The Southern people, while insisting that slavery was a municipal question subject wholly to home rule, were compelled to look to the National Government for protection. Public opinion had been brought fully to that determination before the meeting of the memorable Congress of 1850.

This year, 1850, marked an epoch in the course of American history. It was the gathering of sectionalism, to be restrained for the coming ten years by compromise, and then to sweep into secession. Sectionalism had so permeated the national system that every Federal measure was suspected of having a bearing on this question. Party lines had become of secondary importance. Before the adjournment of Congress the preceding spring, a meeting of eighty members from the Southern States, regardless of party affiliation, had drawn up resolutions written by Calhoun. They complained of the increasing difficulties of retaking their fugitive slaves, demanded the right of carrying all their property into the Territories of the United States,

and denounced the Wilmot proviso. During a recess of Congress, these resolutions had obtained a wide circulation in the Southern newspapers, where they were lauded as a second Declaration of Independence.

On the other hand, the legislatures of many Northern States passed resolutions, during the spring, likewise regardless of party, that Congress had power to prohibit slavery from entering a Territory and to abolish it in the District of Columbia. To appreciate how sectionalism was cutting into party, one may note that Cass was chosen Senator from Michigan by a Democratic assembly, which in the same breath repudiated the doctrine of its Southern brethren. Benton had opposed the introduction of slavery into the Territories and was repaid by being defeated for a re-election to the Senate from Missouri after thirty years of service.

The opening of this Thirty-first Congress, one of the most historic sessions ever held by that body, was ominous. Stephens, of Georgia, wrote from Washington that men talked seriously of the dissolution of the Union who twelve months before would scarcely allow themselves to think of such a thing. The House began with a contest of three weeks over the election of a Speaker, candidates from Massachusetts and Georgia being pitted against each other. An entire week was necessary to decide upon a doorkeeper. Within a fortnight after the opening of the session, the lie was passed. A challenge to a duel sent by Senator Davis, of Mississippi, and the drawing of a revolver by Senator

Foote, of the same State, were incidents of the debates. Correspondents of New York newspapers wrote that there was no telling what day bloodshed would streak the halls of Congress.

Gradually the demands of each section found shape in measures, and the possibility of arranging a compromise between them presented itself to the "father of American compromise," Henry Clay. The reappearance, after eight years' retirement, of the venerable statesman from Kentucky, now weakened by the ravages of disease, had been one of the sensations of the session. He had written home, soon after his arrival, urging the holding of Union meetings in Kentucky, and assuring his friends that disunionists counted upon the co-operation of that State in furthering their nefarious ends. He considered the masses of the Southern people still sound in allegiance, although likely to become influenced and led astray. The disunion feeling among the intemperate Southern politicians at Washington he pronounced stronger than he could have imagined. Of the result in Congress, he could make no prediction. "Everything here is uncertain," he wrote to a friend. To another he said, "Slavery here is the all-engrossing theme; and my hopes and fears alternately prevail as to any satisfactory settlement of the vexed question." Before the end of January, 1850, he wrote, "I have been anxiously considering whether any comprehensive plan of adjustment can be devised and proposed to adjust satisfactorily the distracting question of slavery." Collecting the most prominent demands

of each section, he made certain balances between them and launched the result in a set of resolutions, January 29th.

In these resolutions, "intended to secure the peace, harmony, and concord of the Union," as they declared, Clay proposed that the South should consent to the admission of California with her anti-slavery constitution; that she should also agree to the prohibition of the slave-trade in the District of Columbia; and that the new State of Texas should consent to a reasonable boundary between her and New Mexico. The North was asked to allow territorial governments to be established in all the land gained from Mexico, except California, without any provision as to slavery. Clay asked the North also to permit the National Government to compensate Texas for yielding New Mexico by paying the debt incurred in her struggle for freedom, to give the South a more rigid fugitive slave law, to acknowledge that the abolition of slavery in the District of Columbia would work injury to Maryland as well as to the slave-owners, and to declare that Congress could not interfere with the slave-trade between slaveholding States.

Barring the last two statements, these resolutions were incorporated into Clay's famous compromise measure of 1850, and started on their perilous journey through the two Houses of Congress. Naturally each section complained that more sacrifices were demanded from it than from the other. Contemporary and even later writers have shown an equal bias.

Twice the aged champion of compromise climbed the Capitol steps to plead for his motion, leaning upon the arm of a friend and with frequent pauses for recruiting his strength. With the old-time fire of direct appeal, he spoke to crowded galleries. As a Northern man, he justified the admission of California on precedent and pleaded for immediate organisation of the new Territories as simple justice to their inhabitants. As a border statesman, he showed that the two resolutions concerning the District of Columbia precisely balanced each other. As a Southern man, he rehearsed the complaints of the South concerning the resistance to the fugitive slave law and demanded one more efficient. "I will go," said he, "with the Southern Senator who goes furthest in making penal laws and in imposing heaviests sanctions for the recovery of fugitives and for restoring them to their former owners."

The speeches of Clay stand like forest giants of unionism, about which raged the winds of sectionalism. Ignoring the chorus of jeers and threats; regardless of the taunts of Thaddeus Stevens, of Pennsylvania, that Virginia wanted to grow lusty sires and fruitful wenches to supply the slave buccaneers of the South; overlooking the warning of Clingman, of North Carolina, that the Northern contingent might at any moment precipitate a Lexington skirmish in Washington, Henry Clay insisted that the Union could be saved only by moderation and toleration. John C. Calhoun, another dying statesman, sat in his chair, and with undimmed glance swept the Senate while his farewell message

was read for him by a friend. If his cause had won the day, this speech would have been a classic. It is the defiant note of the champion of a hopeless cause, who finds himself beaten at every point. Overcome by numbers and sectional legislation, the South in his opinion could find her only possible salvation by securing certain changes in the Constitution. These would restore a balance between the sections and give the Southern minority its former place. They must come from the Northern majority freely and ungrudgingly.

Clay was three years past the allotted term of threescore years and ten. Calhoun was five years his junior, but in even feebler health. His speech on the Clay resolutions proved to be his last public utterance. He passed away within the month. Clay survived him but little more than a year. In contrast with these enfeebled giants was Webster, the same age as Calhoun, but still strong and "godlike" as of yore. He appeared to be at the height of his intellectual power; yet Atropos awaited him only two summers distant. Ever since the Hayne-Webster debate, Webster had been looked upon by his constituency as the champion of New England and her interests. Whig and Abolitionist united in doing him honour. So far as the compromise propositions were concerned, the Abolitionists were violently opposed to the concession of a new fugitive slave law. The suppression of the traffic in the District was considered too small a return for such a sacrifice of principle.

Many of the New England Whigs, really anti-

slavery men in principle although not in party alliance, were not concerned so much in the other proposed measures as in the preclusion of a new fugitive slave law. They assumed that Webster, the champion of Northern interests, would prevent such an action. They failed to see that Webster was a Whig and not an Abolitionist; that his imperious will could not brook any instruction; and that every attempt to inform him concerning the will of the Massachusetts people irritated rather than convinced him. On March 7th, he broke his long silence on the compromise measures, making perhaps the only speech in American history named for the day on which it was delivered. He defended his position by attacking the Abolitionists as public agitators, whose twenty years of work had produced nothing of value or benefit. Like Clay, he believed that the Mexican accession would remain free from an invasion of slavery because of its aridness. Nature had set upon it the seal of freedom. "I would not take pains to re-enact the will of God," said he.

The anti-slavery element might have forgiven these portions of the speech if the Abolitionists could not; but both factions were astounded by the closing sentences, in which Webster declared his opinion that the complaints of the South concerning their fugitive slaves were well grounded, and that he would vote to give them a more effective law and would aid in enforcing it. Webster was a Northern man and a New England man; yet, as he said in his opening words, he spoke in neither of these characters, but as an American, pleading for the preserva-

tion of the Union. Whether he really thought that secession and the dissolution of the Union would result from a failure of the South to secure its demands, or whether he was making a "candidate speech" planned to catch the Southern vote in the next national Whig convention, will probably remain an open question between his critics and his admirers. In any event, the nomination passed him by, and before the ballots were cast he had joined the galaxy of departed leaders.

Mingled with the speeches of these passing statesmen could be heard the strong voices of their successors. The old and new met in this memorable session in the transfer of the insignia of power. William Henry Seward, twice governor of the State of New York, appeared in the Senate as the representative of that commonwealth, and now arose to declare himself as opposed to compromise in any and all the forms in which it had been proposed. No authority was given over the Territories, he insisted, other than that given by the Constitution, and it devoted the land to Union, justice, defence, welfare, and liberty. "But there is a higher law than the Constitution," said he, "which regulates our authority over the domain and devotes it to the same noble purpose." This was the law of nature supplementary to the Constitution, by which the Creator had bestowed the land as a common heritage, making the people his stewards. This sentence was perverted at the time into the revolutionary thought of a higher moral law subversive of the Constitution. Isolated from its context, it is fre-

quently quoted in that false meaning to the present time. Part of this perversion was no doubt due to the popular feeling against Seward for making, at this critical moment, what Clay pronounced an Abolition speech, and one which alienated for the moment all compromise men from him.

Senator Jefferson Davis, of Mississippi, another coming man, proposed an extension of the old Missouri Compromise line over the new territory to the Pacific, with an exact equilibrium to be maintained on each side. This was an old proposition. Stephen A. Douglas, a Senator of two years' standing from the State of Illinois, with his great career scarcely entered upon, spoke as a Northern Democrat, hoping for conciliation for the sake of a party, and therefore in favour of compromise.

As the session progressed, Clay's "omnibus was overturned," in the parlance of the day. But the desired end was being accomplished in other ways. "They are passing through the Senate, in separate bills," Clay wrote in August from the seashore, to which he had been taken, "all the measures of our compromise, and if they should pass the House also, I hope they will lead to all the good effects which would have resulted from the adoption of the compromise." These results were reached partly through the sudden death of President Taylor, the uncompromising foe to certain portions of the compromise. He would not buy New Mexico from Texas, neither would he give to the people of that new acquisition a territorial government instead of the statehood to which he thought they were en-

titled. Assurance that Fillmore, the new President, would be favourable to the compromise measures was made doubly sure when Webster became the head of his Cabinet.

Another event which hastened the passage of the various measures by demonstrating the actual danger of a dissolution of the Union was the assembling at Nashville, Tennessee, in June, 1850, of variously chosen delegates representing the States of Virginia, South Carolina, Alabama, Mississippi, Tennessee, and Texas. Georgia alone was wanting to complete the chain of States which seceded from the Union ten years later. Called for the purpose of ending the encroachments of the North upon the Southern States, hinting at the possibility that the assailed States might form as a last resort a separate compact and union among themselves, the convention created much less interest in the South than it caused alarm in the North. It served, however, as a spectre of menace at the time, and it formed a precedent for concerted action of States in a convention at a later time. Compromise had scored one more victory.

CHAPTER X

THE COMPROMISE ANNULLED BY REFORMERS

THE Union was saved in 1850 so far as compromise patching could save it. "Concession, conciliation, and compromise" had gained the day. The citizens of Boston, regardless of party, fired one hundred guns; vast Union meetings were held in New York at which mutual congratulations were in order; New Orleans and other Southern cities celebrated in a fitting manner; and the convention which was expected to reassemble at Nashville to protect Southern interests, attracted a small attendance and smaller attention.

The only discordant voices were those of the Abolitionists and the radical anti-slavery men, who deplored a compromise because they would have the South yield all points where slavery was concerned. James Russell Lowell paid his respects to the word "compromise" in his *Interview with the Ghost of Miles Standish.*

> " Now God confound the dastard word!
> My gall thereat arises,

Northward, it hath this sense alone,
That you, your conscience blinding,
Shall bow your fool's nose to the stone,
When slavery feels like grinding."

Sufficient seeds of discord were left in the Fugitive Slave law alone to prevent the coming of the national millennium which statesmen described in the figure of speech known as "vision." They had succeeded for the moment in quieting the people, as some said, or in deceiving them, as others put it, but no opinions had been changed. The Southern people had not abandoned their belief that slaves were property nor their determination to recover them. The Northern people were as fully convinced that slaves were men, originally free until enslaved, and that even illegal means were justifiable in restoring them to freedom.

If the rendition law should prove ineffective, no fault could lie with the intentions of its makers. Its author, Mason, of Virginia, pronounced it as strong as he could draw; but there is a limit beyond which strength becomes weakness through danger of fracture. The task of returning the runaways was transferred from State to national officers, United States commissioners being appointed in all States and Territories to hear cases of negroes claimed as fugitives. Two witnesses that the claimant had owned the slave and an oath for the identification of the captive were the only forms of evidence required. All good citizens were commanded to aid in the execution of the law; the United States marshal was

J. M. Lowell.

empowered to summon a posse at public expense; and a severe penalty was imposed upon him for allowing a prisoner to escape or upon a citizen who knowingly concealed a fugitive. Clay's original bill had allowed the alleged fugitive a jury trial under certain conditions; but this was struck out before the act was passed. No appeal or stay was allowed from the decision of the commissioner, notwithstanding the well-known jealousy in the North of the right of *habeas corpus*. No precaution was taken to prevent making the law apply to all fugitives, regardless of the length of time they had resided in free States. A brisk business of negro hunting was likely to follow. It was estimated that not less than fifteen thousand negroes were living in the Northern States, whose freedom had been illegally gained.

Many of these negroes resided in the New England States. Boston Abolitionists boasted that not a fugitive had been returned by legal process from that city since Revolutionary times. Although public meetings in Boston had joined with those in other Northern cities in celebrating the compromise as a finality, although a Faneuil Hall assemblage of conservative citizens resolved that any form of resistance to the execution of the law tended to anarchy, yet the sentiment of a large part of the citizens of Boston was quite to the contrary. The Southern appellation of Boston, "the hotbed of Abolitionism," was easily deserved. Faneuil Hall was open to these agitators also, and they resolved in public meetings, led by Wendell Phillips, Josiah

Quincy, and Charles Francis Adams, that the Fugitive Slave law of 1850 was contrary to the Golden Rule, the Declaration of Independence, and the Constitution of the United States. Charles Sumner invoked the silent aid of public opinion which he thought would soon nullify the act. This seemed a more legitimate method than to attempt forcible resistance to a Federal law, as South Carolina had done thirty years before.

Public sentiment seemed at first to be in accord with such pacific advice. Within eight days after the passage of the law, a negro was returned to Baltimore from the city of New York by a United States commissioner. The proceedings were kept comparatively secret; but when the facts became known, a sufficient sum was raised by subscription to redeem the unfortunate man and to restore him to his family. It was not long, however, before a different spirit began to manifest itself, especially in the city of Boston. The descendants of the men of action who threw the tea overboard in the days of Samuel Adams were unlikely to be quiet when the worst features of the act should be exemplified in their midst.

The satisfactory message with which President Fillmore had greeted Congress, when it assembled in December, 1850, was followed within two months by a proclamation directed against "sundry lawless persons, principally persons of colour, combined and confederated together for the purpose of opposing by force the execution of the laws of the United States." The cause of this insurrection in the

orderly city of Boston was Shadrach, a well-known waiter in a Boston tavern, who had been arrested under the new law as a fugitive slave. During the course of his trial, he was one night taken forcibly from the United States court-room by a mob, composed largely of negroes, and sent to Canada, where he was secure in the absence of an extradition law. Boston had made a most practical nullification of a Federal law. Two months later, one Sims was returned to his master from Boston despite all legal efforts to block the proceedings. The court-house in which the trial was held was surrounded with heavy chains, and the prisoner was escorted through the streets by armed marines. A United States vessel carried him to Virginia to demonstrate to the people of the South the desire of the Administration to enforce the law. In 1854, it cost the Federal Government upwards of one hundred thousand dollars to return Anthony Burns, a fugitive slave, from Boston to Virginia under the provisions of the act of 1850.

Some who resisted the execution of the law justified their action by the charge that it was retroactive and hence unconstitutional. Ex-slaves, who had been living for years in a state of freedom, becoming respectable citizens and rearing families, were liable to re-enslavement under its provisions. The opposition spirit was not confined to Boston. The rescue of "Jerry" at Syracuse and the killing of a slave-hunter, Gorsuch, while searching for a runaway in Lancaster County, Pennsylvania, together with the Oberlin rescue in Ohio, were upheld by those who

placed the rights of men above the rights of property. Margaret Garner, who killed her child rather than have it returned with her to bondage, aroused a sentiment which a thousand statesmen and compromises could not allay. The law provided fine and imprisonment for conspiring to defeat its purpose. When these were imposed by the courts, a popular subscription quickly paid the one, and the other was endured with the spirit of martyrdom.

Evidence was daily given the Southern people that their Northern confreres would not abide by the bargain their Representatives in Congress had made. Threats were current at the time the law was passed that it could not be enforced. Giddings, a rabid anti-slavery Representative from Ohio, declared in the House that "the freemen of Ohio will never turn out to chase the panting fugitive. They will never be metamorphosed into bloodhounds. They will die first." Such expressions were ignored at the time as rash and lacking any truth of prediction until confirmed by later action. The North had always stood firmly for the Union and had omitted no opportunity to strengthen the Federal Government even at the expense of the rights of the several States. Here, said the Southern people, was an act, passed by the Federal Congress, approved by a Northern Federal President, declared constitutional by the Federal Judiciary, and yet the Northern people refused to abide by it. The South had no possible means of executing a law in a Northern State. The Northern people alone could do this

EXECUTING THE FUGITIVE-SLAVE LAW OF 1850

This cartoon appeared at the time that *Uncle Tom's Cabin* was being written.

and must do it immediately if good faith were to be kept and the Compromise really made a finality.

The South had undoubtedly suffered in this transfer of the slavery system from State to national protection. The National Government had always considered slavery a local institution and had provided no machinery for it. This was evidenced in the case of Shadrach, who was abducted from a United States court-room, where he was imprisoned because a Massachusetts law of 1843 prevented a State official from detaining a fugitive slave. A Massachusetts jailer was a State official. Hence Shadrach's captors were denied the use of a jail in Boston. If the law were to be fully executed, Federal jails must be built in every city and hamlet in a State where laws hostile to slavery could be found on the statute books. Such "personal liberty laws" were enacted by every New England State except Connecticut, and by New York, Pennsylvania, Ohio, Michigan, Wisconsin, and Kansas. They closed the jails to prisoners claimed as fugitives and, in some instances, prescribed punishment for false testimony and provided a jury trial for fugitives.

During the debate on the Compromise measures, it was frequently asserted that the South was asked to sacrifice property, while her opponent yielded nothing but sentiment. Yet sentiment was the germ of anti-slavery. This sentiment had been extended to the slave in the aggregate before 1852. The publication of a serial story, *Uncle Tom's Cabin*, in the year mentioned made the fugitive a real person through the magic spell of fiction working upon

imagination. Heretofore a disturbance in the street was dismissed as simply the arrest of a runaway "nigger"; but hereafter the first thought was that the fugitive might be another George Harris or Eliza with her child. The pen of the minister's wife had brought the panting fugitive to the hearthstone of every Northern home, where he crouched for protection. Northern Whig and Northern Democrat as well as Abolitionist read the book. The mob which had stoned the Abolitionist meeting yesterday might be weeping to-night in a theatre over the sorrows of Uncle Tom sold "down the river." Compromises of statesmen became dams of bulrushes before the flood of public sentiment created by *Uncle Tom's Cabin*. Frequently a newspaper would contain a comment upon the marvellous sale of the two volumes, whose publication speedily followed the completion of the serial, while in a neighbouring column a description was given of the rescue of a fugitive slave from the Federal authorities by mob violence. Without *Uncle Tom's Cabin* it is doubtful whether the law of 1850 could have been enforced; but with it, the efficiency of the statute was constantly hampered. The Abolitionists found in this bit of fiction a more powerful agency than all their publications of a decade had produced. The conditions which it portrayed were accepted in the South as fiction and in the North as fact. The brutality of the overseer was understood in the South as possible, but an exception; it was considered in the North as universal. The sequence is easy to follow. *Uncle Tom's Cabin* led to renewed personal liberty laws and to a partial

invalidation of the act of 1850. These in turn led to secession, and secession led to war.

Although *Uncle Tom's Cabin* takes rank as a political rather than a literary hit, it is suggestive of the creative middle period of American literary production. This period was influenced largely by the spirit of reform. Intellectual leadership passed from commercial New York to philanthropic Boston. Harriet Beecher Stowe was a New England woman transferred temporarily to the environment of Ohio. Her family was closely associated with that mental revolt against austere Puritanism which made the pre-eminence of New England letters possible. Much of this inspiration came from Europe. The educational reform of Pestalozzi, the social reforms of Saint Simon and Fourier, the philosophy of Fichte and Kant, and the mysticism of Swedenborg found lodgment first in New England. The soil was prepared by the extensive facilities for printing, by the number of institutions of higher education, and by the leisure afforded through long commercial prosperity.

No plan of reform was too chimerical to find followers; no phase of personal improvement too abstruse to win propagandists. Sociological separatists were as militant as ever religious "Come-outers" had been in Puritan days. Transcendentalists, as opposed to materialists, established a co-operative school at Brook Farm in 1842 to extend their teachings. Its four years of existence brought together, in more or less personal contact, Emerson, Hawthorne, Charles A. Dana, George William Curtis,

Margaret Fuller, A. Bronson Alcott, W. H. Channing, Theodore Parker, and George Ripley. Situated not far distant and closely associated with it in thought and sympathy was Concord village, which became the centre of American prose writing of the time. Not many miles distant was Cambridge, the seat of Harvard College, whose Puritanical heritage, invigorated by the introduction of the classics and of European art, bred the group of poets to which Longfellow, Lowell, and Holmes belonged. The general reform movement of which Transcendentalism was one phase, found expression also in Fourier "phalanxes," established at various points throughout the States, in which co-operation of labour and living was expected to produce the highest ethical culture at the least expense of time and energy. Certain students and writers sought to prove that a high moral, physical, and intellectual condition could be attained only by subsisting on vegetable food; others would convert the entire matter of the wheat grain into food-stuff; others would abandon the comforts of civilisation and return to a state of nature; and still others wished to abolish money or annihilate the existing marriage laws and customs. Woman's rights had an extended hearing, and the temperance reform received a large share of public attention. Lowell thus represents the spirituelle aspirations of A. Bronson Alcott, one of his contemporaries:

" For his highest conceit of the happiest state is
Where they 'd live upon acorns and hear him talk gratis."

THE REPUBLICAN PARTY GOING TO THE RIGHT HOUSE.

THE CAMPAIGN OF 1860

Greeley carrying Lincoln to the White House, followed by the motley reformers who constitute the Republican party.

It is noteworthy that the various reform agitations which characterised American life in the pre-Civil War period aimed at social rather than political betterment. With the exception of the Abolitionists, the reformers did not directly touch the history of the making of the Union, although they strongly affected the history of the life of the people. They rarely came into contact with the Federal authorities. State regulations were at times necessary to compel reformers collected into communities to conform with the marriage or other local laws. Far more frequently the action of the State was necessary to protect the non-conformers from the wrath of their neighbours, intolerant of radical changes in society. Of the ameliorative attempts based on religious rather than industrial motives, that of the Mormons affords the most interesting as well as the most lasting instance. The history of the Mormons also serves to illustrate the slight value of constitutional guarantees in either State or nation to separatists.

During a religious revival in the State of New York about 1823, Joseph Smith, a boy of eighteen, claimed to have found certain buried plates engraven with the Book of Mormon. The Church of "Latter Day Saints," which he founded upon the teachings in the Book, sought a land of promise in which to build the new city of Zion. They first established themselves in New York. Being looked upon with disfavour by their neighbours, they resolved to migrate to the less thickly populated State of Ohio. But separatism found no more favour in Ohio than it had in New York. Tar and feathers showed the

animosity of the people, which the State authorities were unable or unwilling to check. Flying to Missouri and driven out once more, Smith selected a tract of unpopulated public land in the State of Illinois and took thence his persecuted flock. Upon the rolling bluffs overlooking the Mississippi, he founded Nauvoo, the new city of Zion. Here he collected as many as fifteen thousand followers. No community movement or even religious gathering of the kind could compare with it in strength. But internal dissension followed the announcement in 1843 of the doctrine of polygamy. Conflict with the Illinois State authorities followed. Smith and his brother, while under arrest in the county jail, were put to death by a mob.

The State authorities took possession of the city of Nauvoo to save the people from the fury of the mob. Brigham Young, the successor of Smith, resolved to lead the Mormons once more into the West, so far into the wilderness that freedom from the presence and persecution of their fellow-man might be hoped during years to come. A brief stop was made upon the banks of the Missouri. Here a company was recruited from the Mormons to serve on the Santa Fé campaign of the war with Mexico. In 1846, the main body started on their long pilgrimage across the Great Plains to California, eventually changing their destination to an isolated valley on the eastern side of the Great Salt Lake. In the fastnesses of the mountains they hoped to find more protection than they had found in civilised places.

The story of the persecution of the Mormons

sounds incongruous in a free republic. The guarantees which had been added to the Constitution as amendments had not been repealed. Freedom of religion, of the press, of speech, and of peaceful possession of property were still warranted. But they protected the individual only against the Federal Government; they did not protect him from his fellow-man. The States were supposed to do that; but the States were proving impotent against the strength of public opinion. The people, preventing through their control any interference of the State authority to protect the minority, and fearing no interposition of the Federal authorities in a sovereign State, were giving an illustration of that unrestrained tyranny in a republic which has become proverbial. Few were moved by any profound sympathy for the Mormons. They had sacrificed public favour by their non-conformity with the tenets held generally among the people. Public opinion is the final criterion, against which constitutional guarantees are worthless. But the persecution of the Mormons undoubtedly hastened the day when public thought would turn from the States to the Union for protection. The horror of Federal interference in a sovereign State was gradually disappearing.

Many of the reform agitations, characteristic of the middle of the century, were spasmodic, erratic, and quite apart from a persistent movement among the people. No doubt they aided the greatest of all the reforms—that for the abolition of human slavery. Abolition was persistent. It not only

interfered with political plans and made permanent compromises impossible; it affected even the realm of American letters. As a moving inspiration for oratory, it stands second only to the causes which produced the Revolution. It reached even the fields of poetry and fiction. The names of William Lloyd Garrison, Wendell Phillips, and Charles Sumner were placed in the permanent list of American authors through the Abolition agitation. The Quaker poet, Whittier, was brought before the public by his *Voices of Freedom*, however little they added to his fame as a poet. Although an anti-slavery man rather than an Abolitionist, Lowell was inspired to some of his best efforts by the same moving cause. To these names, that of Harriet Beecher Stowe must be added.

This "Augustan Age" of American literature was confined almost entirely in its productions to New England, because civilisation in America reached its full fruit first in that quarter. The New England States enjoyed some peculiar advantages over the other portions of the Atlantic coast plain. The intellectual spirit, which developed rapidly in the first leisure after the hardships of colonial life, was confined to the extreme North-eastern States. It was replaced in the Middle States by the commercial spirit. From New York to Baltimore, great seaports were developed as outlets for the products of the fertile Middle West. These slowly absorbed the commerce of New England until both shipyards and merchantmen of Salem and Marblehead were known only by relics in museums. Yet New Eng-

land's loss commercially was her gain intellectually. Also the heterogeneous race and sectarian elements which formed the people of the Middle States prevented any uniformity of devotion to reform or philosophy. The Quakers were the Abolitionists of that section. Accumulated wealth aroused only the desire for additional wealth. The printing-press developed the commercial newspaper instead of putting forth scholarly books.

Farther to the South, a rural population, scanty mail service, and small opportunity to support presses prevented lasting literary production. To these deterrent causes must be added the enervating effects of climate, the temperament which seeks material rather than mental pleasure, and the incubus of a class organisation of society. The South possessed as much ability, individual for individual, as the North; but a development of literature under the circumstances was simply impossible. Occasionally individual writers proved that the section could produce talent not inferior to its Northern rival; but talent cannot live by faith alone. Scholarship is aristocratic in itself; but it can thrive best in pure democracy. The trans-Alleghenian or Western region knew no such intellectual development as New England experienced in this ante-bellum period of literature. Limited means of printing, vast distances with infrequent communication, and the gigantic task of conquering nature prevented any permanent results of intellectual activity. An intellectual relation was early established between the East and the West which holds to the present.

The former became the producer and the latter the consumer. It is precisely the reverse of the agricultural relations existing between the two.

The Abolition reformers had done more than to develop the literature of New England. By their persistence and the aid of a work of fiction they had compelled the South to appeal to the Federal powers to use force in recovering a property which it claimed was solely under State regulation. If slavery was a matter for home rule, freedom as its concomitant might be equally claimed as subject to local regulation. In that case, every arrest of a fugitive in a Northern State might be deemed an infringement by Federal authorities on the rights of that State. The South had taught the North the doctrine which it employed in passing personal liberty laws. On the other hand, the Northern people, the supporters of Federal aggrandisement, who had held the Constitution in reverence, refused to abide by a Federal law in complete accord with one of the promises made in the Constitution, and without which the Constitution could not have been adopted. The inhabitants of the section which had long claimed the supremacy of the Federal over a State law, when the two were in opposition, now arrayed their strength against the national authorities and placed obstacle after obstacle in the way of the execution of a national statute. Men who had shuddered at the thought of orderly nullification, when applied at the South Carolina custom-houses, upheld Northern mobs in breaking open jails and rescuing United States prisoners. Which was the

more acceptable method of nullifying an obnoxious Federal law?

Interpreting Northern actions in this manner, Southern statesmen began to ask themselves within three years after the Union had been saved by compromise whether they had not paid too dearly for what they had secured. They had disregarded the call of South Carolina to arms, they had agreed to one more attempt to get justice in the Union, and had received in return a law which was nullified by the other party. The old balance of States they had sacrificed in admitting free California. Slave Texas had been offset by free Iowa. Free Wisconsin had next been admitted and free California followed. Twenty-eight Southern Senators were pitted against thirty-four from the free States. The House representation was one hundred and forty-seven from the free States and ninety-four from the slave States. Oregon and Minnesota were even now at the outer door. There were no Southern equivalents possible. The Territory of New Mexico, with its mixed population, was unfit for statehood for years to come. Texas was unlikely to consent to a division. The restoration of the sectional balance, for which Calhoun had pleaded in his last words, was hopeless unless the bonds of the Missouri Compromise line could be broken.

Avoidance of secession after the repudiation of the Compromise and the practical abrogation of the Fugitive Slave law by obstruction may easily be pronounced impossible. That ten years were required to bring secession about was due to the fact that

violations of the law were scattered over a wide extent of territory and of time. The loss of a slave was truly a material deprivation and not violence to a theory; yet the loss touched only one individual —the owner; cases of the rescue of fugitives were scattered through the Northern States; and the masses of people in the South were not affected. It is also true that Federal officials enforced the law in the majority of instances and even with the aid of Federal troops, and that those who interfered were punished. Secession was postponed not only because of these extenuating circumstances, but also because a new source of hope was opened in 1854, by which the South might hope to regain some of the territory and political power which she had lost in the balance between the sections.

CHAPTER XI

FEDERAL CONTROL OVER TERRITORIES

WHEN the sixteen hundred Mormons encamped on the Missouri near Council Bluffs, in 1846, they constituted part of the vanguard of the American pioneers in the conquest of the continent. Had they remained here, they would soon have been surrounded by foes in the onward movement of the people. Council Bluffs occupied the centre of a great crescent formed by the frontier, one end resting at Green Bay, Wisconsin, and the other end in Texas. To the eastward of this line, the country was well settled. As many as twenty people to the square mile lined both banks of the Mississippi as far north as Dubuque, Iowa. The Western States were being populated rapidly. This was apparent when they were compared with the older States. Iowa had gained 251 per cent. in the decade between 1840 and 1850, while Vermont in the same period gained seven and Virginia fourteen per cent.

Toward the South, the people had filled Arkansas and were crowded against the Indian reservation

now known as the Indian Territory. Farther advance in that direction seemed impossible. Across the northern part of the Territory ran the Missouri Compromise line, to the north of which the Southern man dare not migrate with his slave property, being restrained by a law made in the preceding generation. North of the line and extending to the Canadian boundary lay the Great Plains. Ten times as large as New York or Pennsylvania, these fertile, semi-arid, and arid expanses stretched east and west from Iowa and Missouri to the Rocky Mountains. Over them roamed many tribes of Indians, both indigenous and those transferred from the Eastern States, finding an easy living in the abundance of game. In all this vast region, known indefinitely as "the Platte Country," there were probably less than one thousand white people in 1853. Across the great expanse ran both the Oregon and Santa Fé trails, converging at its eastern border and separated by a thousand miles at their western termini. Promoters had long imagined these Western solitudes penetrated by steam railways, binding the isolated Pacific States to those of the older portions. For the protection of a railway no less than the numerous waggon trains, which made their hazardous way across the Plains, some kind of a government should be extended over the region.

The initiative of this needed legislation belonged naturally to the Committee on Territories in each branch of Congress, which had at various times in the past assumed charge of erecting territorial governments, as population and conditions warranted.

ST. LOUIS IN 1854

The extensive commerce of the Mississippi River in that day is manifest from this old print in the possession of the Missouri Historical Society.

In 1853, the impending steps for a Pacific railway made some action necessary. A bill incorporating the entire Platte country into a Territory, to be known as "Nebraska," passed the House but was tabled in the Senate. Opposition arose from the injustice which it might work toward the Indians in the possession of their reservations. Another explanation for the failure of the bill was to be found in the conditions which had gradually arisen in Missouri and which turned the apparently harmless matter of a territorial government for Nebraska into a fierce and final struggle between the North and the South.

Missouri had been made an exception in drawing the line between freedom and slavery across the Louisiana Purchase in 1820. Extending alone into the free section and coming into contact upon her northern and eastern sides with free soil, Missouri occupied a unique position among the slaveholding States. She found most inhospitable neighbours. The great highway of the Mississippi offered a constant temptation to her bondmen to seek illegal freedom. Iowa contained a most active and efficient Underground Railway system. For thirty years the State itself had been more or less a battle-ground between those of its own inhabitants who believed in slavery and those who believed in freedom. The controversy was kept alive by emigrants from the neighbouring free States. Those writers and thinkers who would allow climatic conditions to regulate the extension or restriction of the slavery system pointed to Missouri as an illustration. It was a slave State by the compromises of man rather than by the

provisions of nature. Within its great area, surpassed only by Texas among the slaveholding States, there were in 1850 only 87,422 slaves. They were in proportion to the whites as one to six. In the neighbouring State of Arkansas the ratio was one to four and in Kentucky one to three. South Carolina was not half the size of Missouri; yet South Carolina's soil and climate were so much more suited to slave labour that she contained more than four times the number of slaves.

No sectional line of the distribution of slaves among the counties of Missouri can be drawn. Buchanan, one of the most populous counties but containing the smallest proportion of slaves to whites, lay in the north-west portion of the State, embracing the city of St. Joseph. Cape Girardeau, another county with exactly the same conditions, lay in the south-east part of the State on the Mississippi. Boone, the county containing the largest number of slaves outside St. Louis, lay near the middle of the State. Callary, whose population was almost one-third slaves, lay to the east of it. Roughly speaking, the largest number of slaves in proportion to the whites, lay along the Missouri River, through the central portion of the State. A vertical section, taking the counties on the western border, further demonstrated this central disposition. Four counties, adjacent to the point where the Kaw or Kansas River joined the Missouri, contained five times as many slaves as the remaining border counties combined. The number decreased both north and south from this central nucleus.

The proposed Territory of Nebraska lay on the western border of Missouri and consequently in the direct path of the movement of population from that State. It was forever closed to slavery by the Compromise which opened Missouri to the system. This was a grievance not only to the border counties of Missouri, but to all slaveholders within the State. A man wishing to migrate to the Nebraska country must leave behind such property as was represented by his slaves when he crossed the Missouri border. Nor was this injustice to the slaveholder, as he considered it, confined to the people of Missouri. Slave-owners from other States as well, who might wish to occupy homes in the new Territory, would be barred from taking their most productive property with them. "Hemp will be the chief product if not the staple of that country [Nebraska]," said a St. Louis paper, "and all who have had any experience know that in its cultivation slave labor is indispensable."

In addition to its economic injustice, this restrictive line, imposed by one generation upon its successor, disclosed a political danger in the probable loss of Missouri as a slave State when once she should be surrounded on three sides by free States. The difficulty of restraining runaways in the border States, or of returning them according to the law of 1850, was now being exemplified throughout the Union. Helpless to retaliate, Missouri would gradually be invaded peacefully by settlers from her free neighbours who could, whenever they gained a numerical superiority, destroy this species of property

within the State. Even before this time, they might send Representatives to Congress hostile to slave property. If the enemies of the slave system could win away Missouri they would be encouraged to make similar attempts upon other slave States. The South could not afford to lose even one State in her minority position. Statesmen of the South studied with no little concern the statistics which showed that in Arkansas the number of slaves had multiplied twenty-three times since 1820, and the whites thirteen times, but that in her neighbour, Missouri, they had increased only eight times to the white's ten times.

For these reasons, the formation of a territorial government for Nebraska assumed a national importance. If the restrictive line of 1820 could be wiped out and the chances of forming future States be opened to the Southern as well as the Northern people, Missouri might be saved and a restoration of the sectional equilibrium might be possible. From the great triangle of the Louisiana Purchase, the South had already gained three slave States, Louisiana, Arkansas, and Missouri; but with these she had exhausted her share of the purchase. On the free side of the line, Iowa alone had been created. Six or seven additional free States would probably be erected out of the Nebraska Territory, unless the bargain of 1820 could be annulled. Form was given to this wish by the doubt in the minds of many Southern men as to the constitutionality of the line of 1820. Since the vacant territory belonged to all the States, it was questioned whether Congress had

a right, within the specified power of making needed regulations for the territory, to prevent a citizen from carrying his property into any part of the common land. Non-intervention of Congress held good in the States; it should be equally valid in the territory owned by the States. But so hopelessly was the South in the minority in Congress that few really expected to see the law repealed.

Nevertheless, Northern newspapers claimed that meetings were held in Platte County, Missouri, one of the strongest pro-slavery counties on the border, to pledge the blood and treasure of the State for the extension of her institutions into the new Territory whenever it should be organised. It was also claimed that "Blue Lodges," or secret societies, were formed in certain Southern States with the same object in view. However visionary such a plan might have looked prior to the Congress of 1854 it became a possibility when Senator Douglas came to the aid of his fellow-Democrats in Missouri and the South. Party once more was made to act as the servant of sectionalism. As chairman of the Senate Committee on Territories, Douglas reported a frame of territorial government for Nebraska in 1854, which passed both Houses by sectional votes after heated debates. It provided for a division of the land along the line of the fortieth parallel, that portion lying to the south to be known as the Territory of Kansas, and the remainder to be called Nebraska.

Carrying an amendment which openly repealed the Missouri Compromise line, the act applied to the two Territories the "popular sovereignty"

device. Instead of prohibiting slavery according to the Missouri compact, or providing that it should never be interfered with, it allowed the people of the Territories to decide at the time of assuming statehood whether they would have slavery or freedom. The idea was borrowed from the territorial acts of New Mexico and Utah. Since the settler in the new lands was known vulgarly as a "squatter," the plan was commonly called "squatter sovereignty." Douglas assumed the responsibility for this Kansas-Nebraska Act which re-opened the slavery question, presumably settled for ever by the compromises of 1820 and 1850. "I shall be assailed by demagogues and fanatics," said he, "and shall be burned in effigy. It may end my political career. But under a sense of duty, I am prepared to make the sacrifice." He claimed that popular sovereignty represented the very essence of home rule and Americanism. Being asked its origin, he said that God put man into the world and told him to judge between good and evil.

The Abolition element had quietly been pursuing the uneven tenor of its way, scoffed at and ridiculed, but presenting at every point a bold hostility to slavery where it existed. It could not show much result of its many years of agitation. The reformer must be patient. The Compromise of 1850 had presumably quieted the slavery question for ever in the opinion of the masses. But the attempt to repudiate the bargain of 1820 produced a great revolt of popular sentiment, regardless of party. A new element appeared on the American political horizon.

Its avowed object was not to interfere with slavery where it already existed, being in this respect quite distinct from the Abolitionists, but to prevent the extension of the system to new territory. Hence its constituents were known as "Kansas-Nebraska men." Many of them no doubt hoped at some time to migrate to the new lands and did not wish to compete with slave labour. Some of the milder Abolitionists joined themselves to the new faction, being actuated by genuine hostility to slavery, and satisfied to gain even partial victory. The radical Abolitionists, believing that all compromises made by a government which thereby recognised slavery were not binding, took no part in the crusade for the restoration of the line and the compulsory freedom of the Territories. In their opinions, free Nebraska and Kansas were mere bagatelles compared with the extensive slave States holding millions in bondage. The Kansas-Nebraska men considered the action of Douglas not so much a sacrifice to duty as a bid for Southern votes and the Presidency in 1856. His argument that the Compromise of 1850 had practically repealed the Compromise line of 1820 by giving part of the free soil to the undetermined Territories of Utah and New Mexico they regarded as fallacious and a subterfuge. The plea of the South that they were submitting their inherent right to take their property where they chose to the chances of a vote of the people did not appeal to the Northern anti-slavery men, who would grant them neither privilege. If Douglas, following party lines, was attempting to aid and gain the goodwill of the South, he was

breaking party lines in the North. The Whig, Abolitionist, and Anti-Slavery Democrat found a common meeting-ground in a rally to save the new States from the blight of slavery. "I was losing interest in politics when the repeal of the Missouri Compromise aroused me again," said Abraham Lincoln, an old-line Whig lawyer of Illinois.

The hopes of the South and the sentiment of the North, thus arrayed against each other, caused a six-years' struggle for the control of Kansas. Unfortunately the terms of the contest made population and priority of organisation the points to be contested for in the prize. Each side felt that to await the workings of the natural laws of emigration would be fatal. Conditions must be forced, and violence employed if necessary. Many Southern people believed that the old balance could be restored by giving Kansas, the Southern Territory, to slavery, and Nebraska, the Northern, to freedom. With this thought, a throng of slaveholders and sympathisers from western Missouri crossed the river and collected about Ft. Leavenworth, the army post of the frontier. They founded a number of towns in that vicinity. But the anti-slavery element, ignoring the repeal of the Compromise line and claiming both Territories still devoted to freedom, organised bodies of immigrants to take up immediate residence in Kansas. Their town sites were selected, generally speaking, in a north-and-south line to the west of the pro-slavery settlements and but a few miles distant. In this way the two forces lined up for the struggle. The Territory of Nebraska was too far

removed from Missouri to be an object either of fear or desire. In due time, it was organised by Northern settlers as a free Territory without attracting any general attention. The contest centred on Kansas.

The first governor and other executive and judicial officers of Kansas, to be appointed by President Pierce, would undoubtedly be Democrats and presumably not hostile to the introduction of slavery. The legislative council and assembly, to be chosen by the people, would have great influence before the framing of a constitution. The members of these legislative bodies were to be chosen by popular vote in districts. Numbers meant power. In the rush to populate the Territory of Kansas to secure political control, the South was nearest the source of supplies. Missouri had three times as many white inhabitants as Iowa possessed. But Missouri had little assistance from her sister slave States in colonising Kansas, while the Northern States, with their superior numbers and their greater resources, became one vast recruiting station for Kansas emigration. Emigrant aid societies, originated by Eli Thayer, a New England schoolmaster, and financed largely by Amos Lawrence, a wealthy Massachusetts manufacturer, sent nearly a thousand people during the first year, fully equipped and armed, to settle in Kansas and save her for a principle.

It was claimed that $140,000 were spent by the free-soil advocates in colonising the Territory. Each faction set up presses in the rival towns. The cause enlisted the leading literary spirits in the North.

Thomas Wentworth Higginson made a journey on horseback to Kansas and sent his observations to Greeley's *Tribune*, where they had a large reading. Bryant wrote *The Prairies*. Edward Everett Hale contributed a *Guide* to emigrants. Whittier wrote the song of *The Kansas Emigrants*, in which he made them say:

> " We go to rear a wall of men
> On Freedom's southern line,
> And plant beside the cotton-tree
> The rugged Northern pine! "

The Southern contingent was at first overwhelmed by the superior resources of their sectional enemies. Rallying from the first surprise, they determined by all possible means to prevent the Yankees from stealing the Territory by colonisation methods. Each side accused the other of beginning these illegitimate ways of gaining citizens. "When propagandist colonization had been undertaken in one section for systematic promotion of its peculiar views," said President Pierce in his last annual message, "there ensued as a matter of course a counteraction in the other section."

To hold a fair election under such circumstances was well-nigh an impossibility. The outnumbered Missourians, looking upon the settlers under the aid societies as temporary residents, sent large numbers of their own people across the border on election day, forged names, and usurped control of the elections for the territorial legislature and the congres-

sional delegate. Upon them the indignant free State people fastened the title of "Border Ruffians." There is no doubt also that some of the free-soil immigrants returned to New England after the first election. A colony reached Lawrence the day of election and its members were allowed to vote. The census of the proposed Territory was taken in October and showed 2905 voters. At the November election for a congressional delegate, 6307 votes were cast. The pro-slavery faction accused their opponents of allowing the males of an Indian tribe to vote, and were accused in return of having registered and voted every name in the directory of an Eastern city.

From 1854, when made into the Territory of Kansas, until 1861, when admitted as a State, the fair plains of this Western region were disgraced by a local warfare between the rival governments set up by the pro-slavery and free-soil elements. Atrocities were committed by each side. The faction wishing to introduce and retain slaves was recognised and supported by the National Administration; the others depended upon the right of revolution and the superior financial and numerical support which their section gave to them.

No less than five territorial governors attempted successively to reconcile the contestants and to organise a State. Only the birth of Missouri or that of California is comparable with the absorbing national interest aroused by the advent of Kansas. Eventually a pro-slavery constitution was framed at the town of Lecompton, which Buchanan endorsed

and the Administration attempted to force upon the Territory and upon the people of the United States. Those who favoured the introduction of slavery had the advantage of the Democratic Administration; but those opposed to it had the advantage of superior numbers in Kansas.

This Lecompton constitution provided a slave code for the new State, forbade compulsory emancipation without compensation, prohibited laws against bringing in slaves, and prevented free negroes from residing within the State. It was precisely such a constitution as the slavery sympathisers would be expected to frame. But the anti-slavery people had one opportunity remaining to save the State. According to the Kansas-Nebraska Act, the constitution must be voted upon by the people of the State before going into effect. In order to prevent an adverse vote, the makers of the constitution had provided that only the slavery clauses should be submitted to a plebiscite. "The constitution with slavery" or "the constitution without slavery" was the prescribed form of the ballot. In either event, the constitution as framed by a pro-slavery convention must be adopted. If the constitution without slavery was adopted, it was not to interfere with slaves already brought into the Territory. This was in accord with the execution of the Ordinance of 1787, but was a peculiar kind of free-soil doctrine.

So manifestly unfair was the manner prescribed in the constitution for carrying out the plan of popular sovereignty that the free-soil citizens refused to vote upon the proposed constitution. Con-

sequently, " the constitution with slavery " was adopted by a vote of 6226 to 509. The action of the Kansas freemen in refusing to vote was upheld in the States by the Kansas-Nebraska men and by many Northern Democrats. It was such a travesty on his favourite theory of home rule that Douglas himself denounced the Lecompton proceedings. The one-minute speech in which he announced in the Senate his opposition has rarely been equalled in political gravity. It foretold the split in the old Democratic party and the resulting victory for the new element which was born of the Kansas-Nebraska measure and nurtured into full strength by the Lecompton constitution.

With the death of Clay, the Whig party, of which he might easily have been hailed as the father, rapidly went to pieces. Even Clay could not have kept it from disintegration. It had been organised to meet the requirements of the first expansion of manufacture, transportation, and commerce during the middle period. It had served its purpose in galvanising a part of the old individualistic Democrat-Republicans into national life. Through its appeals to the people, it had succeeded in enlarging the sphere of national activities. It had applied the catapult of local demand to the fastnesses of strict construction. When it could not drive hard-and-fast theories, it gently led them. Although rarely brought into power, its announced principles of paternalism compelled its adversary to broader views to save itself in the estimation of the people.

But the Whig party occupied an impossible geo-

graphical position. The support of loose construction, of unionising tendencies, must come from the Northern States because of topography, methods of life, climate, and temperament, as well as because of inherited bias. The Whig party was not a Northern party, like its successor, the Republican party. In the election of 1848, the last which the Whigs carried, the Northern States gave them only two-thirds the required number of electoral votes. For the remainder, they must depend upon the Southern States. Concerning the question whether slavery extension could be controlled by the National Government, or whether the entire slavery system was purely a local institution, the Northern and Southern Whigs could never hope to agree. The only possible escape was to dodge the slavery question.

By adopting non-committal planks in the platform of one convention, and by omitting a platform in another, the Whigs hoped to find sufficient general issues to distract popular attention from the disturbing slavery question. Having succeeded twice in electing a war hero, they attempted in 1852 to repeat the success with a general of the army, who consequently had no vote and no disturbing record on this sensitive issue. Greeley voiced the sentiment of many Northern Whigs when he pronounced the election of 1852 the greatest farce the American people had ever been compelled to go through with. In a similar way, the Democrats hoped to preserve their party and the Union by ignoring the moral issue of slavery. "The Democratic party

will resist all attempts at renewing, in Congress or out of it, the agitation of the slavery question," declared the party platform in 1856 in the midst of the most violent discussions upon the Kansas question.

The attempt of the old parties to dodge the slavery issue was responsible for the advent of the Free-Soil Democratic party in the same election. It declared that it was not organised "to aid either the Whig or the Democratic wing of the great slave-compromise party of the nation, but to defeat them both." It also pronounced slavery a sin against God and a crime against man. It was a legitimate offspring of that wing of the Abolitionists which believed in a third party. The American, or "Know Nothing," movement had its origin in a local fear lest the Irish, who had gained control of the government of the city of New York for the employment it would furnish to new immigrants, should extend their power, both religious and political, to the entire nation. It combined the most illiberal policy with the most patriotic impulse that has ever actuated an American political party. That it should have gained a headway on such narrow and sectarian principles in free America sufficient to present a presidential candidate in the election of 1856 is a further evidence of the unrest of the people under the deceptive tactics of the great party leaders. It also marked a decided change of sentiment from the period following the War of 1812, when immigrants were welcomed to make free homes in America.

From all these broken lines of old parties and

spasmodic attempts to form new ones, there was gradually evolved the outline of a permanent organisation on the common ground of the non-extension of slavery into new territory. Its inception may be traced to the attempt in various States to elect United States Senators and Representatives, who would attempt to restore the Missouri Compromise line, annul the Kansas-Nebraska Act, and re-dedicate the Western soil to freedom. Within two years, this common purpose brought about a meeting in a schoolhouse on the prairie near Ripon, Wisconsin, in which a new party, to be known as the "Republican" party, was freely discussed. It led further to a general convention for the same end in the same State; to the nomination of a State ticket at Jackson, Michigan; and to a national Republican conference at Pittsburg, at which twenty-three States were represented. This meeting was held on the anniversary of the birth of Washington and marks the final organisation of the new party.

On the anniversary of the battle of Bunker Hill following, the first Republican national nominating convention met in the city of Philadelphia and named Colonel John C. Frémont, the Rocky Mountain "Pathfinder," as its candidate. The platform took the ground that since our fathers had abolished slavery in all national territory, neither Congress, individuals, nor associations had the right to intrude it therein; but that it was the duty of Congress positively to prohibit it. Concerning the right to interfere with slavery as existing in a State nothing was said; but the silence no less than the statements

of prominent supporters of the party argued that no such right was claimed.

The Democratic platform stated in capital letters its dogma—the non-interference by Congress with slavery in State or Territory. Singularly enough the two parties were united upon non-interference, but were exactly opposite upon the question whether slavery was in all territory originally or whether it was not. Remembering that Congress had felt it necessary to legislate slavery out of the North-west Territory, and considering the gradual national assumption of the regulation of the system, the unbiassed mind must consider the Democratic platform historically correct. But the other platform undoubtedly voiced the prevailing opinion of a growing number of people. The remnant of the old Whig party, rent asunder by sectional differences, confessed that it had no new principles to announce, no new platform to establish, and no new doctrine except that found in the Constitution. The Constitution would have been a good resting-place for a party if it had been more stable; if live issues of interpretation had not rendered its meaning most uncertain.

Thirty-five States took part in the election of 1856. Nineteen of them chose 174 Democratic electors, a majority of only 25 for James Buchanan. The party had carried the preceding election by a vote of 254 to 42. This loss could not be attributed by the Democrats to their old enemies, the Whigs, since they carried only one State, Delaware. The inroads were clearly traceable to the new Republican

party. This was the first election in which it participated, yet it gained 114 electoral votes. Such a record was unprecedented. No one longer thought of the heterogeneous elements of which it was composed. No one longer predicted that it was only a sudden impulse. The chief thought of all parties and sections was what the Republicans might be able to do four years hence. Their inspiration, Kansas, was in the midst of her struggle, and likely to prove a live issue for some time.

With the claim of the Republican party for the right of all men to life, liberty, and the pursuit of happiness, the Southern people were in hearty accord. They also agreed with their Northern brethren that no man should be deprived of his life, liberty, or property without due process of law. But they differed upon the definition of the word "property." The increasing annoyance felt from the difficulty of enforcing the Fugitive Slave law, the growing number of Northern State liberty laws, and the barriers to taking slaves into the Territories made all parties anxious for some definition of the word. The increased travel between the various parts of the country in the rapid development of the railway caused frequent annoying incidents in carrying servants.

Little light was cast upon the question by the past history of the United States. The compensation demanded for slaves carried away by the British army at the close of the Revolution argued that they were property. Following the War of 1812 when the claims were being considered by Congress,

THE CAMPAIGN OF 1856

A burlesque on the incongruous constituency of the new party.

an attempt was made to include slaves, but failed after a spirited debate. Thereafter claims for negroes lost in service were uniformly rejected, according to this law of 1816. A vigorous effort was made by the slavery interests in Congress in 1828 in the claim of Marigny D'Auterie to have slaves recognised as property, but without avail. Nothing could be ascertained by looking to the practice in other countries. England refused to recognise the right of property in slaves in the British Isles and extended the same policy to her possessions as rapidly as slavery was abolished in them. A slave became a free man by stepping on British soil. Germany acknowledged slaves as property, permitting an owner to remain a reasonable length of time with his slave.

The renewed discussion of carrying slaves as property into the Territories did not turn as the previous considerations had done upon the slave as a subject for damages, but whether a master should be deprived of his slaves by removing to virgin soil. If slaves were recognised as property by the Constitution, was a man allowed to carry other kinds of property as he willed, but be deprived of the use of his body-servant because he chanced to cross a State boundary? Or could a hostile territorial legislature in Kansas, for instance, debar this species of property before the time for the test of popular sovereignty should arrive? "A difference of opinion has arisen," said President Buchanan, in his inaugural address, "in regard to the point of time when the people of a territory shall decide this question for

themselves." He added that this was a judicial matter, belonging legitimately to the Supreme Court, before which it was now pending in a suit. He alluded to the famous Dred Scott case, the verdict of which was made known the day following the inauguration. It affirmed the opinion for which the South had long contended, viz., that the Missouri Compromise was unconstitutional so far as it prohibited slaves being carried north of the line it established. When the act was passed the United States was to be regarded simply as a trustee for the people, and the trustee has no right to deprive any one of his wards of his equal rights in the benefits of the common lands. Congress consequently possessed no power to regulate slavery in any Territory by a compromise or in any other manner. This is the only part of the decision which pertained in any way to the Kansas trouble; yet it was a sufficient warrant to Buchanan to declare that slaves could henceforth be held in Kansas as legally as in South Carolina.

The Southern partisans were jubilant. The repeal of the Compromise of 1820 was sanctioned by the highest authority. They were not to be deprived of their rights in the common land of the republic. Reformers who meddled with body servants and prompted them to claim freedom because they had been on free soil had been taught a lesson. The danger to the millions of dollars invested in slave property was averted. The Democratic party by this decision seemed to have a new lease on life. The most disturbing questions had been settled.

The Northern anti-slavery advocates were correspondingly disheartened and downcast. They had grounded their resistance to the rendition law upon their belief that the slave was a man. He had now been declared a thing. Yet the decision was only the opinion of a group of men occupying a judicial position. They were not infallible. From this reasoning it came about that the section which had most strongly supported the Federal judiciary, now became its most severe critic. Few men are good losers. The Republicans believed that the judiciary had been prostituted to the use of the pro-slavery interests. The attitude of Pierce toward Kansas, Buchanan's unfortunate allusion to the forthcoming Dred Scott decision, and the casting aside of the popular sovereignty provision formed a sequence sufficient to arouse the suspicion of a programme. Even the fair-minded Lincoln compared the Democratic concert to a house built by different workmen, but the parts fitting exactly into each other. He said, "In such a case we find it impossible not to believe that Stephen and Franklin and Roger and James all understood one another from the beginning."

Whatever hope the framers had that the Federal Judiciary would be free from partisan bias or sectional influence was evidently most difficult to realise. The justices are human beings, subject to inherited tendencies and the influence of environment until long past maturity and the formative period of life. Yet being placed upon the bench, unbiassed opinions are expected of them. Dependent

upon a party president for appointment, they are expected to possess no party affiliations in rendering opinions. Variations in their decisions from time to time may be expected, and they are not difficult to find. The Court has been moved according to its constituency, precisely as have the other departments of the National Government. In the beginning, the Hamiltonians obtained control of the Judiciary with the other Federal departments but, owing to the life tenure of office, did not lose it with the others in 1801. For thirty-five years, John Marshall cast the doubt of decisions in the scale for the Union and against individualism. In 1837, a decision of the Court showed an exact reversion. In the case of the City of New York *vs.* Milne, the Court sustained a law of the city against the United States authorities. Death, of whose tardiness among Federal officials Jefferson once complained, had made an alteration in the complexion of the Court. Not only was John Marshall replaced by Roger B. Taney, of Maryland, a Southern individualist, but similar changes had been made in a majority of the Justices of the Court. Democracy had at last come into possession of the third branch of the Federal Government. For the next twenty-eight years, the pendulum was made to swing toward decentralisation, illustrating in one more particular the universal law of action and reaction, which is the safeguard of representative government.

The Dred Scott case happened to be the first opportunity since the particularists gained control,

which allowed a general survey of many unsettled aspects of the slavery question. The desire to take advantage of this opportunity carried Chief Justice Taney, as similar opportunities had carried his predecessor, beyond the case directly in hand. In addition to deciding that a slave is not a citizen entitled to sue in a court, Taney denied the assertion so common among Abolitionists that the equality of man as announced in the Declaration of Independence included black as well as white and made slavery inconsistent with it. Although this verdict was undoubtedly in accord with the ideas of manhood current at the time of the Declaration, the bitterness with which it was attacked showed the progress made by sentiment concerning the status of the slave since the founding of the Republic. It should have warned the State-rights adherents that it was dangerous suddenly to command "About face!" in the progress of public sentiment. The onward way always appears at the time as the way of progress. To attempt to return in thought to old conditions of moral sentiment is as impossible as to return to old methods of lighting or of transportation.

The Supreme Court depends solely upon public opinion to support its verdicts. It endangers the influence it has in the public confidence whenever it forsakes its legitimate field of deciding upon justice between man and man to give opinions or advice upon a political subject. Chief Justice Marshall had frequently included these extra opinions, but never in such a critical moment as the Dred Scott

case, and never on a purely political subject. Further, his decisions were in accord with the growing opinion of the time and contrary only to that of a few leaders. Taney hoped to settle many vexing political questions concerning the States and the Territories by his essay into an historic field. He wished to demote the negro to the inferior position he had occupied before sentiment concerning him had been aroused by the Abolitionists and by Mrs. Stowe. From this position, Northern sentiment was attempting to elevate him to manhood.

The decision that Dred Scott was not a citizen drew attention to the new light in which the slaves had come to be regarded, gave the new Republican party a task in guaranteeing to the negro his political rights under the Declaration, and inflicted a mortal wound on the popular-sovereignty theory which was being tried in Kansas. If Congress could not keep slaves out of a Territory, neither could a territorial legislature do so, since it is a creature of Congress. No body can confer a power which it does not possess. Further, if slaves could be taken freely into a Territory, the people of the Territory would not be left free to choose when making a constitution, since the slaves were already present.

Taney had endeavoured to clear up all doubt on the two questions of the status of the slave and the control of Congress over slavery in a Territory, but plunged himself into the midst of a political controversy. Northern people soon transformed his historical essay into a saying that the negro has no rights which a white man is bound to respect. They also

said the decision threw open every free State to slavery. Neither statement was fair to Taney. There was said to be no more pitiful spectacle in Washington than the sight of the feeble Chief Justice during the Civil War pointed out as the man whose decision was largely responsible for the existing hostilities. To the present day, it is possible to find men and women who are willing to give John Marshall credit for honest conviction in his decisions, but who withhold this desert from Roger B. Taney.

CHAPTER XII

THE PASSING OF STRICT CONSTRUCTION

THE platforms of the political parties in the campaign of 1856 were concerned chiefly with the national regulation of slavery in the Territories. Constitutional issues on other matters were lost to view. But beneath the overshadowing slavery question, important demands of the people were being met and important precedents set during the decade of 1850 to 1860. Neither Republican nor Democratic platform dared to omit a plank in favour of a highway between the Atlantic and the Pacific. The chief difference between the two declarations was that the Republican party, the successor of the Hamiltonians, asserted its demand for road, river, and harbour improvement as "authorized by the Constitution and justified by the obligation of the Government to protect the lives and property of its citizens." The Democratic party, compelled to exercise care between alienating the goodwill of the people and being false to the principles it had inherited, asked the Federal Government to exercise its constitutional power to attain the desired objects.

The party was not converted to a policy of paternalistic works; it was attempting to dodge public demands.

The decade of so much sectional discord was one of great commercial prosperity, barring the temporary "panic" of 1857. The public debt, increased from fifteen to sixty-eight million dollars during the Mexican War period, began to decrease slowly after 1851. National obligations were satisfactorily met. The States had recovered from their financial distress and were paying their indebtedness. The public credit was saved from the dishonour of even State repudiation.

About the middle of the century, the great era of intracontinental communication was inaugurated. Before 1850 not ten thousand miles of railways had been constructed in the entire United States; ten years later, three times that number had been built. They radiated in all directions from commercial centres, opening new lines of trade and travel, and bringing to market products of hitherto inaccessible regions. Experiments and inventions had greatly improved the service and carrying capacity of this method of transportation. The general application of pivotal trucks to both locomotive and cars overcame the serious obstacle of curves in railway construction and enabled the surveyors to take advantage of the easiest route. The enlargement of the stage-coach into a long passenger car and the use of special cars for goods trains increased the carrying power of the roads. The consolidation of small links of railroads into a through line

contributed to the comfort of the passengers and economy in handling the business. In 1850, it was possible to journey from New York to Buffalo by rail; but ten different tickets over as many links of the route must be purchased by the traveller. The use of iron instead of stone for the construction of bridges decreased the cost and enabled railways to follow more closely the natural roadbed afforded by the banks of streams.

In the year 1850, railway lines had been opened to connect all the navigable streams emptying into the Atlantic, between the Hudson and Lake Erie, between Lake Erie and the Ohio River, and also between Lake Michigan and Lake Erie. Several were under construction between the Great Lakes and the Ohio River, and one between Lake Michigan and the Mississippi River. The project of a railway over the half-continent between the Mississippi and the Pacific had long been advocated. As early as 1845, Asa Whitney began presenting his memorials to Congress for a grant of land sixty miles wide extending from the Mississippi to the Pacific for constructing a railway, which should belong to the Federal Government. The discovery of gold in California seconded the suggestion. Petitions and memorials in great numbers found their way to Congress. But nothing was accomplished. The time for such gigantic enterprises was not yet at hand. Railways were still considered as supplements to water-ways. But Whitney's suggestion that a portion of the public lands should be given to aid in constructing a Pacific railway served to call public

attention anew to that source of assistance for such enterprises. Private capital, which had been building railways east of the Missouri River, was inadequate to the task. Precedents for granting public lands to help build turnpikes and canals were not difficult to find. Had the National Government ever extended similar aid to a railway?

Among the projects of internal improvement which financially wrecked the State of Illinois about 1837 was one for a railway from Cairo on the Ohio River to the Galena lead mines in the northern part of the State, located practically on the Mississippi River. Ten years later, the enterprise was revived with the addition of a branch to extend to Chicago, giving an eastern connection. Stephen A. Douglas, a Democrat and a follower of strict-construction doctrine, was the most ardent agent which the State of Illinois ever sent to Congress. In 1848, he fathered a bill granting the revived Illinois Central Railway a right of way through the public lands lying within the State, as had been done for a canal in previous years. Douglas was a past-master in the art of "log-rolling" and a most indefatigable worker for home benefits. That he was trenching on Whig policy in this action in no wise lessened his zeal. In fact, the entire Democratic party seemed to have lost the old doctrines and to have forgotten the lessons taught by former presidential vetoes in this particular. Calhoun went so far as to pronounce the request of Douglas a species of public works concerning which no constitutional question could be raised. He regarded the government as a

landed proprietor opening his domain by a highway. Cass joined in this view with his fellow-Democrats as if the party had never opposed such paternalism or as if the protests of Jackson and Van Buren had never been presented against either direct or indirect benefits to be conferred on the States. Constitutional objections to the Illinois Central proposition could scarcely rally a sufficient number in Congress to precipitate a debate. The chief objection heard was from other States which would derive no benefit from the lands to be given.

Douglas could not hope for support from the Eastern States and was unable to gain a sufficient number of Western votes to pass the measure at the first essay. But in the session of 1850, he accepted a proposed extension of the Illinois Central from the mouth of the Ohio to Mobile, Alabama. The Representatives from the Gulf States, who had formerly voted three for and four against the project, changed to thirteen for and none against. As now planned, the line united the Gulf of Mexico with Lake Michigan, where connection was made for the Atlantic. It was beyond doubt the most pretentious enterprise thus far inaugurated. This action of Congress was important in the history of the Union. It was the first grant of public lands directly to aid the building of a railway. It was accomplished by co-operation, commonly known as "log-rolling."

The law gave alternate sections of the public domain on each side of the right of way to aid in building the road. Where the adjacent land had

been sold, the company was allowed to take a similar amount within fifteen miles. This was presumably the maximum distance from which a team could bring products in a day to the railroad. Two of the four States through which the united road would pass, Kentucky and Tennessee, had never been a part of the public domain and contained no United States land. An amendment to give to these States a quantity of land lying in Mississippi and Alabama, proportionate to the length of the line within each, was defeated. That advocate of the amendment was clearly within the bounds of reason who said that if a railway in Illinois benefited Illinois, and one in Alabama was a blessing to the lands of that State, then the connected two lines ought to increase still further their value. But the theory of constitutional elasticity had not yet been sufficiently developed to allow land in one State to be used for building a railroad in another State.

As has been suggested, the action of the Federal Government in the Illinois Central land grants marked an era in the history of public works as well as of political parties. The grant was made to a State; but sooner or later, corporations would take up railway projects and demand similar aid. The transition to benefiting corporations would be as subtle as it was easy. The first step would make a precedent. Other prospective roads would not be modest in presenting their claims. The Congress of 1852 had petitions representing no less than 3090 miles of railways asking lands to the accumulated

amount of nearly fourteen million acres. Private and corporate influence was active in the lobby. Only one of these bills became a law. It was for the benefit of the railway proposed to connect the Mississippi at Hannibal, Missouri, with the Missouri at St. Joseph in the same State. But it was difficult to stop when the practice was once begun. In 1856, lands were granted to the States of Michigan, Mississippi, Iowa, Alabama, Florida, and Louisiana to be distributed by the State legislatures to certain named roads. Nearly twenty million acres were disposed of in this manner.

The intense East and West sectional jealousy, manifest in the early debates, gradually disappeared. The New England States in 1848 had voted in the Senate four to one against the proposition of Douglas. They showed five to one in favour of the Mississippi State grant in 1856. Each section gave a majority in both branches to the grants except the South Atlantic States. Their hostility was due ostensibly to constitutional doubts; but in reality to a lack of personal benefits in these measures. Railroad building was not active in the South-east. Few navigable waterways demanded connection. The coast supplied the principal communication. The proposed railways were located chiefly in the north-western portion of the settled area, peopled largely by New Englanders once or twice removed. These sectional lines were destined to be drawn still more closely in connection with the private ownership of the public lands. Railway building was given a check in the panic of 1857, and railway

grants ceased for a few years. The demand for "homesteads" received a corresponding impulse.

The thought that the people individually should be possessed of the public lands was of gradual growth. The "donation acts," beginning with Florida in 1842, by which a settler was granted a section of land upon condition that he dwell upon and improve it, was justified by the necessity of planting hardy pioneers on the frontier as safeguards against the Indians. The principle was the same as that warranting grants to canals and railways. By alienating a portion of the land, the remainder was made more valuable. Similar acts were passed for Oregon, Washington, and New Mexico. The holder was given a tract of land of which he was sole owner, subject only to his creditors. The common law of England allowed all a man's property, both personal and real, to be seized by his creditors, the wife losing her right because merged in that of her husband. To ameliorate this hardship, the State of Texas passed a "homestead" law in 1839. It granted to a settler a certain number of acres of land after a fixed residence upon it, and also pre-empted them from any debt contracted by the owner prior to being given the grant. Other States, having public lands, passed similar laws.

In considering the various plans for the disposal of the public lands, the thought of making them into free homesteads for the poor was advanced. It was claimed that this was unquestionably the original intention of Congress when the lands were given to it for disposal. The purpose had been lost sight of

in special legislation, and must now be restored by public action. Men unable or unwilling to purchase farms solicited grants of this kind from the Federal Government. Some based their demands upon the service which they would pay to society by opening new lands and protecting the frontier. Others claimed that the land was held in trust by Congress to be administered for the benefit of the people, and that each man who could attend to a farm was justly entitled to receive one. Statesmen admitted that freeholders of property were the strongest supporters which the Government could have, because they had something to lose. Tenants had no such ties binding them to the support of law and order.

Public meetings were held to further the cause of the people, furnishing an excellent opportunity for the demagogue, and making a critical time for the statesman. "Land for the landless" was a taking phrase. It was akin to the word "free" which has been heard frequently in political party cries in America. Opponents of the plan vainly tried to argue that it verged upon an agrarian law; that acceptance of a gift lowers a man in his own estimation; and that the action would practically convert into paupers the independent citizens of the United States. Nevertheless the prospect of getting something for nothing was too inviting to be omitted. The "Free Soil" party, designed to prevent slavery being extended into a Territory, accepted this economic addition to its name. Its platform of 1852 declared, "the public lands of the United States belong to the people and should not be sold to indi-

viduals nor granted to corporations; but should be held as a sacred trust for the benefit of the people and should be granted in limited quantities, free of cost, to landless people."

Various suggestions for the accomplishment of this end appeared in bills in Congress. One would convert into homesteads all lands exposed for sale for ten years and not sold. Another would give every destitute head of a family a quarter-section of land after four years' occupation. A resolution introduced by the famous Sam Houston, of Texas, declared that each family not worth fifteen hundred dollars was entitled to 160 acres of land after three years' cultivation. Gradually these ideas took shape in a proposition to give any head of a family who would reside upon the land for a certain number of years a title to it at a nominal price. Favourable resolutions were passed by various State legislatures and numbers of petitions were presented to Congress. Opposition came from the railway corporations who wished to sell the land given to them. The people claimed that the prices at which the railway lands were held were extravagant and placed them out of the reach of the poor. It was the old contest between moneyed interests and the people, a contest as old as organised government itself.

After several attempts, the new Republican party in the House, aided by Northern Democrats, passed a homestead bill in 1859. With the exception of one Representative from Missouri, the South voted solidly against the measure. Every adverse vote in the Senate, save one, came from a Southern State.

The measure as passed granted every citizen 160 acres of public land at twenty-five cents an acre, provided he dwelt upon it for five years. During this time, the land could not be seized for any debt incurred by the settler. The bill also divided among the States all lands subject to sale and remaining unsold for thirty years. The success of this measure showed that the nationalistic Federalists had come to life in the new Republican party. The force of circumstances was no longer required to push on hesitating individualists to union measures. That day had passed. The Republicans were now ready to carry the government even farther into the realm of loose construction than Hamilton had dreamed of. Only a hostile President stood in the way.

President Buchanan gave ten reasons why he withheld his signature from the homestead bill. They included injustice to previous purchasers and to soldiers holding bounty warrants, as well as several points of expediency. But the chief ground was the lack of constitutional power in the Union to give away the public lands. The million acres already bestowed passed for nought. Indeed, it was questionable whether they carried a valid title with them because no amendment had been made to the Constitution which would justify them according to the Buchanan theory. However, he had a new witness for support in assuming the attitude of Jefferson, Madison, Monroe, Jackson, and Van Buren. He quoted the opinion of Chief Justice Taney that "to dispose of" the public land meant originally to sell it for the benefit of the Treasury;

and that in this historical aspect Congress had as much right to give away the ships, arms, and other property of the United States as to donate its public lands. Who that reads history without prejudice can deny that Taney was historically correct? Time and compulsion had wrought such changes in national policy that few Northern people could be found to concur in his opinion. They preferred to remember the views of Taney's predecessor, that the power to sell for the benefit of the Treasury implied a power to dispose of it for the best interests of the people.

The Southern people were not opposed to the homestead plan because they would be debarred from sharing its benefits. Of the half-million acres of land as yet unsold lying within the States, there were large tracts in the Southern States. But the small quantity of land to be acquired in a homestead did not appeal to the average Southerner accustomed to a vast plantation. Moreover, the best lands in the States had long since been taken. But the Southerner was moved by principle. He was unwilling to sell his birthright of allegiance to the State for a mess of pottage. The Northern man had no fear of alienating himself from his State by accepting a gift from the Union. A homestead of 160 acres of the choice lands remaining in many of the Northern States appealed to him like a gift from the gods. The eagerness with which the homestead idea was adopted in the North furnished the South with an additional reason for rejecting it. It seemed in keeping with the covetous disposition of the Yankee.

Northern thought, quite as naturally, attributed the Southern opposition to free homes to the hostility manifest in that section to free labour being extended to new lands.

President Buchanan was a Northern man. In trying to bring national policy back to the realm of strict construction he was making himself a vicarious sacrifice for his party. He was trying to be conservative when the tendency of the day was toward liberalism. His section would be turned against him. The five appropriation bills for public improvements, which had been passed over the veto of his predecessor in the closing hours of his administration, should have been a warning to him. He had exhibited this same attitude in taking his stand in behalf of the old tenets of his party in 1858, when he dashed the high hope of the agriculturists by his veto of their plan of securing free education in that important art. The rapid spread of scientific information among the people, due largely to the Silliman lectures and the application of the science of chemistry to the soil, as well as the improvement in agricultural machinery, had created a demand for a more intelligent cultivation of the soil. "Farmers' High Schools" were founded in some States. The agriculturists are commonly of a conservative tendency; but even they turned toward Union aid for bettering their condition. They sent petitions for grants of land by Congress on which they could pursue their experiments and instruction. It was argued that an increased knowledge of farming would not only make the remainder of the public

land more eagerly sought, but would conduce to the general welfare.

The bill which Buchanan disapproved donated about six million acres, valued at seven and a half million dollars, to the several States proportionate to the number of Representatives and Senators, in reality according to population. The institutions were required to teach "such branches of learning as are related to agriculture . . . in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life." The veto message claimed, very correctly, that the action could not be upheld by any expressed power of the Constitution, nor by any implied power thus far exercised. Education had always been left to the respective States. Federal taxes could not be applied to State purposes. It "would be an actual consolidation of the Federal and State Governments so far as the great taxing and money power is concerned," said the veto message.

It is frequently and truly said that slavery was the underlying cause of the Civil War and that Kansas and the Dred Scott decision were the more immediate instruments. Opposition to the Administration on these points assembled the Republican party from most incongruous parts. Nevertheless, beneath slavery and Kansas and Dred Scott lay popular indignation resulting from Buchanan's attempt to imitate Madison, Monroe, and Jackson in recalling the people from their madness. It was too late to attempt such reform. The Union had

replaced the State as the public benefactor. The rapidity with which the Republican party on coming into power was able to pass the homestead, the land grant college, and other loose-construction measures proves the statement.

Formative events seemed to rush to a culmination as the year 1860 approached. The organisation of a new political party, the struggle of two factions for the possession of the heart of the continent, and the most famous decision in the history of the Federal Judiciary predicted the coming of a crucial time. Many minor happenings showed the end of a period, a national climacteric. Events which would have appeared trivial at another season became portentous in the heated imagination of the people. The attack on Senator Sumner, a strong anti-slavery man from Massachusetts, by a member of the House from South Carolina, was interpreted in the North to mean that criticism of the South was hereafter forbidden even in congressional halls. It was said to be in keeping with the "rule or ruin" policy of the slave oligarchy.

Similarly, the abortive attempt of a fanatic, John Brown, to inaugurate a general slave insurrection in Virginia, or to contrive the escape of a considerable body of slaves to Canada at one time, seemed to justify the charge so long made by Southerners that the Abolitionists aimed at sedition among their bondmen. No one was qualified to assure them that Harper's Ferry was not the first of a series of uprisings under Northern connivance. The trial of Brown demonstrated that he alone was responsible

for initiating the riot and that the few Abolitionists to whom he broached his plan showed toleration rather than support. According to the law and to satisfy the demand of the Southern people, Brown was executed. That Northern sentiment made him a martyr and glorified him in song and story was additional evidence to the South that his action was condoned if not supported by their Northern brethren.

Debates in Congress assumed a tone never heard heretofore in the keenest sectional feeling. Charges and counter-charges, challenges and investigations marked the stormy days. The indorsement of an anti-slavery book, Helper's *Impending Crisis*, by a few members of the House was sufficient to produce weeks of debate, denunciation, and threats. The choice of a Speaker for the House had been known to require two months, and the election of a chaplain as many weeks.

The development of the nation was lost sight of in the sectional feeling. The German immigration had peopled the North-west, and the Canadians had entered the lumber forests of the North. The grazing of cattle on the Plains and the shipping of dressed beef to the more populous States were fully inaugurated. Between 1850 and 1860 the railway mileage had increased from six thousand to thirty thousand miles. In 1863, through train service was inaugurated between Chicago and New York. The Federal authorities had assumed the regulation of passenger service on steamboats in 1852 because of the increasing number of disasters. The railway

service had not yet assumed a sufficient magnitude to call for similar action. Railroads still remain comparatively free from responsibility for loss of life.

The railway service was greatly improved by the invention of the magnetic telegraph. Brought into a practical form in America by Samuel F. B. Morse, the telegraph was widely extended during the Mexican War by Government use and by newspapers in securing the latest news. The contrivance of a cylinder press to replace the lever was due to the unusual demands upon the columns of the newspapers. About the same time, Elias Howe "raised woman from slave to companion" by the invention of the sewing machine. In 1858, the two hemispheres were linked with the magnetic cable. The following year, the eve of the American cataclysm, was noteworthy in the annals of commercial history. Petroleum had been found in small quantities in various places and had been employed for medicinal and other purposes. In the year mentioned, a company of men bored seventy feet into the earth in western Pennsylvania, where traces of oil were to be found, and tapped a reservoir which produced a thousand barrels of oil a day. About the same time, miners digging in what is now the State of Nevada found large deposits of silver ore, a beginning of the extensive mining of that precious metal in the extreme Western States.

Every State in the Union had established some kind of a system of free schools before 1860. The educational methods were crude for the most part and the teachers accidental rather than professional.

But it is safe to say that no people thus far in history had possessed the rudiments of an education so extensively distributed. That desire for knowledge, characteristic of the people at present, was manifesting itself in many ways. The lecture lyceum was conducted even in remote hamlets. Branches of the Silliman Institute were organised to study phenomena in the various fields of science. Religious sects were active in planting colleges and seminaries especially in the newer portions of the country where the missionary propaganda throve. No less than one hundred and fifty of the institutions of higher education date their charters from the period between 1830 and 1860.

The mutability of the times showed in the public as well as private life of the people just before 1860. The influence of the old families both in the South and in New England was waning. The people no longer looked to them for guidance. Individual thinking supplied a mentor. Democracy had gradually filled the public offices with men of obscure origin. The picturesque in candidates had supplanted the desideratum of qualification. A rail-splitter was likely to be more popular than a college graduate. The nominating convention had been a powerful instrument to this end. Cheering frequently carried the day in public meetings. A revolt was always possible by calling a new convention. Limitations upon the suffrage had been removed in every State. Only South Carolina clung to the old method of choosing presidential electors through the State legislature. The retired business man, the

lawyer, and the clergyman had been pushed aside in municipal influence and control by the popular captain of the ward fire company, the prototype of the modern ward boss. All kinds of political vagaries were in the air. Men of thought drifted hopelessly in opinion. Thousands waited weekly before forming conclusions to see what Horace Greeley said in the "*Try-bune*," as they called his newspaper. Party control of thought and action was a thing of the past. The old Whig party was hopelessly gone. The Democratic party was held together only in the South through the persistence of its leaders already fighting for a "lost cause." Presidential candidates might be expected in any quarter, especially in the West, where democracy had reached its fullest fruition and where Kansas still occupied public attention.

CHAPTER XIII

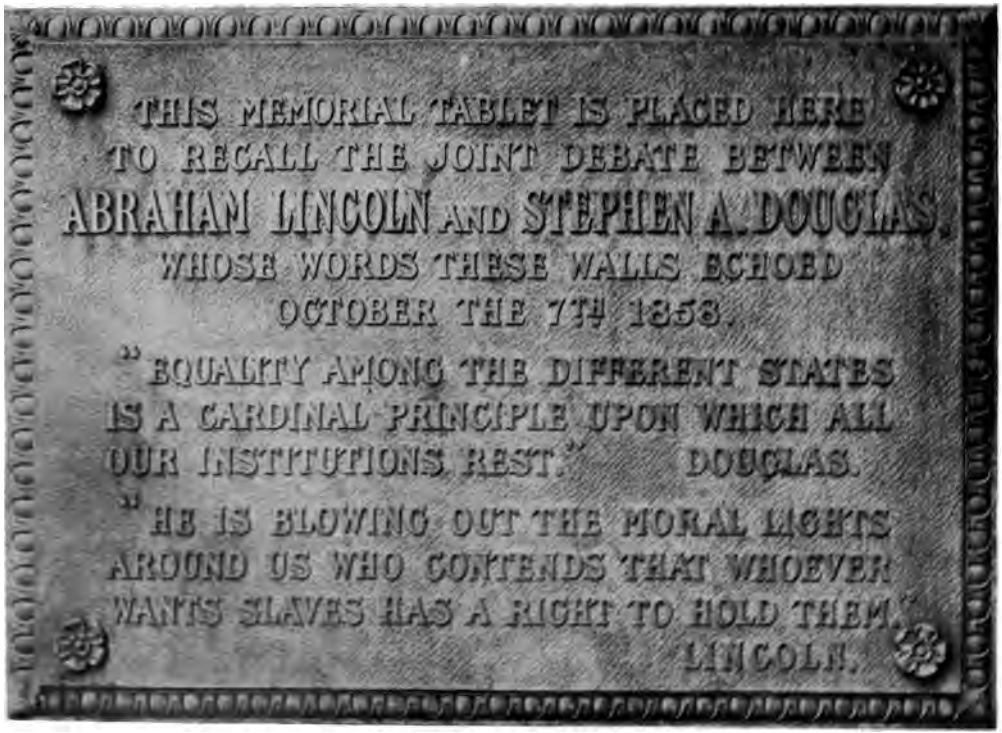
SECESSION AS A REMEDY

A STATE canvass for national senatorship rarely attracted general attention in the days before pivotal States became factors in presidential elections. Illinois had never occupied a particularly prominent place in national politics before 1858. That a contest in that year for the United States senatorship from that State should become of national import was due to a combination of circumstances. Both contestants were presidential possibilities in the unsettled condition of the times; as self-made men, coming from humble ranks in life, they represented the new social conditions; the issues they raised were national and not local; each possessed a strong and striking personality likely to appeal to popular fancy in the shifting state of public thought; and one of them voiced the attitude of the Democratic party of the North on the vital topics of the day, while the other put into shape the arguments to be employed by the new Republican party in attacking that position.

Douglas, in making a canvass of the State for

re-election to the Senate, had been followed from point to point by Lincoln, who took opportunity in impromptu after-gatherings to reply to his arguments. Douglas was finally exasperated into consenting to a series of seven joint debates to be held in the small cities of Ottawa, Freeport, Jonesboro, Charleston, Galesburg, Quincy, and Alton. Alternately each speaker opened the debate in a speech one hour long; the other made a reply of an hour and a half; then the first speaker closed with a rejoinder of half an hour. Very early in the series Lincoln took occasion to ask his opponent whether the people of a Territory could in any lawful manner, against the will of any citizen, exclude slavery from its limits prior to forming a State constitution. It was felt that an affirmative reply would be inconsistent with the advantage gained to the South in the Dred Scott decision, while a negative would seriously impair Douglas's borrowed theory of popular sovereignty. But the wily Douglas was not to be taken in such a trap. He answered simply that, regardless of any decision of any court, slavery could not exist a day without local support. If the people in any Territory were opposed to it, they would regulate it out by legislation. Thus Douglas saved his theory and dodged a direct reply, but his uncertain position on the Dred Scott principle worked him great injury with the Southern people. They could not afford to endanger the benefit of that decision with a Chief Executive of questionable soundness.

The "Little Giant" did not fail in turn to take



THE LINCOLN-DOUGLAS DEBATES

Tablet at Knox College, Galesburg, Illinois, on the site of one of the debates.

advantage of a Scriptural quotation accidentally used by Lincoln in the Republican State Convention, which had endorsed him for the senatorship. Lincoln foresaw the approaching crisis and the impossibility of continuing the old balance between the sections. He noted what he thought to be a desperate attempt on the part of Southern statesmen, the Administration, and the Democratic party to guarantee the permanence of the slavery system and its ultimate extension to all the States, and he as fully understood the determination of a growing number in the North to eradicate it from the entire country. Hence he had said:

"'A house divided against itself cannot stand.' I believe this government cannot endure permanently half slave and half free. I do not expect the Union to be dissolved—I do not expect the house to fall—but I do expect it will cease to be divided. It will become all one thing or all the other. Either the opponents of slavery will arrest the further spread of it and place it where the public mind shall rest in the belief that it is in the course of ultimate extinction, or its advocates will push it forward until it shall become alike lawful in all the States, old as well as new, North as well as South."

Douglas construed these words into a threat of disunion, especially since the Republican party was restless under the recent decision of the Supreme Court favourable to the extension of slavery.

This senatorial debate attracted unusual attention because it occurred in a large Northern State not far from Kansas. The controversy in that Territory

occupied much of the attention of each speaker in the debates. Being published and circulated widely, these speeches served to set the issues of the day clearly before the people. Lincoln's utterances voiced for the first time the principles of the new Republican party, while those of Douglas served chiefly to emphasise the difference of opinion between the Northern and Southern Democrats. If Douglas alienated himself in these speeches from his Southern friends, he succeeded at the same time in planting in their minds, never to be eradicated, the belief that Republicanism and Abolitionism were alike in favouring the equality of the black and white races and the fear that Republican success meant danger to existing slavery as well as to its extension. In vain Lincoln declared that he had said a hundred times that there was no right and ought to be no inclination in the people of the free States to enter the slave States and interfere with slavery as it existed. In vain he denied that the Republicans favoured the social equality of the two races. "I protest," said he, "against the logic which says that because I do not want a black woman as a slave I do want her for a wife. I need not have her for either. I can just want to let her alone." Nevertheless, in the Southern mind, a Republican hereafter was a "black" Republican. The success of that party would bring about such equality as Douglas described having once seen at Freeport, Illinois, where a negro and white woman were seated together in a carriage, while the woman's husband acted as driver. The fight must be waged

not alone for the preservation of Southern property, but for the preservation of Southern blood.

Another result of this debate was to call public attention to the presidential possibilities in this Western State. For forty years the Atlantic coast plain had furnished the presidential candidates. The spell having been broken by Andrew Jackson, the war hero, the trans-Allegheny region had supplied candidates in Clay, Harrison, Polk, Taylor, Cass, and White. In the canvass of 1856, John C. Frémont, the Republican nominee, was claimed as a Western man. A candidate from Illinois was consequently not an impossibility. Of the relative merits of the two debaters as presidential possibilities, modern opinion is likely to be influenced by the success of Lincoln in the election of 1860, and so forget that he lost the senatorship in this preliminary race with his talented rival. Lincoln himself described their respective chances in the opening debate when he pictured the followers of Douglas looking upon him as a presidential possibility, and "seeing in his round, jolly, fruitful face, post-offices, land-offices, marshalships, cabinet appointments, chargéships, and foreign missions, bursting and sprouting out in wonderful exuberance." Of himself he said: "On the contrary, nobody has ever expected me to be president. In my poor, lean, lank face nobody has ever seen that any cabbages were sprouting. We have to fight this battle on principle and principle alone."

The alarming increase in strength of the new party, and the fact that when Congress met in

December, 1859, Republicans outnumbered the Democrats in the House and captured the speakership, caused the Southern people to enter the presidential year with fear for the future and a determination to demand fresh guarantees. Senator Jefferson Davis, of Mississippi, who had gradually come into the leadership of the Southern Democrats, as Douglas had assumed command of the Northern wing, fostered a resolution in the Senate that neither Congress nor a territorial Legislature had a right to impair the possession of slave property; and that if the territorial government should fail to provide for the safety of such property, then it was the duty of Congress to protect it. A guarantee of peaceful possession of slaves in the States themselves would be the next demand, thought the Republicans. Douglas, annoyed at this attempt to take from the people the regulation of slavery in a Territory, and angered that squatter sovereignty should be attacked in this way by a member of his own party, declared that Congress had no more right to protect slaves by special legislation than it had to protect horses, dry goods, or cattle. Thenceforth it was to be a struggle between Douglas and Davis for the leadership of the Democratic party.

The Southern delegates came to the Democratic Convention in Baltimore, in 1860, with a determination to secure absolute guarantees of the peaceful possession of their property. They demanded definitions. They were to be deceived no more by such phrases as "popular sovereignty," which had failed signally to deliver to them Kansas, their share

of the remaining vacant domain. They demanded a platform which would deny the power of Congress to legislate on slavery in the common lands or to pass laws preventing any one from taking his property into them; they also wished to prevent a territorial Legislature from interfering with such property until the State was ready for admission into the Union. Having then attained its majority, the State could regulate this local institution as it wished. Other Southern Democrats demanded a national guarantee against any interference with slave property in the States. They were willing to give the reformers the Territories if only they were allowed their rights in their own States. To get such a platform, Southern Democrats were willing to give the Northern faction the candidate, even Douglas himself. Douglas and his followers, secure in the strength given by the apportionment of the delegates according to the number of votes cast in the last presidential election, were equally insistent upon a non-committal platform, which would leave the entire matter of territorial slavery to the Supreme Court. Acting upon their instructions, the Southern delegates refused to consent and withdrew from the convention.

The long-feared schism in the old Jeffersonian party over the slavery question had become a fact. The party especially noted for its few leaders and rigid fidelity to those leaders had allowed the slave oligarchy to lead it until its Northern adherents would go no farther. It was not alone the pity that a party which had held the National Administration

almost uninterruptedly for sixty years had fallen into a division; that the party which had constituted itself the guardian of the individual against the greed of interests was now to fail; nor that the wound was self-inflicted instead of being received in glorious battle. But the saddest circumstance for Democratic contemplation in the South was that the division should occur at a time when the united strength of the party was most needed; when it alone stood between Southern political and social rights and the victory of the "black" Republicans backed by visionary reformers. A united Democratic party might have averted the danger.

Casting aside the miraculous, the cool judgment of more than forty years later will undoubtedly say that both the nomination and election of Abraham Lincoln were political accidents. Senator Seward, of New York, was the Republican candidate according to the logic of the past. He was the most typical "statesman" of the party. Trained by long experience in various public stations, he could have met successfully any ordinary problem of administration which might be presented to him. But past training in politics could never have trained any man to meet the novel situation of a concerted attempt to secede from the Union. The most potent political formula ever devised was useless. Abraham Lincoln had almost no training in the ways of statesmen, and that fact proved his salvation. His environment in his formative days was that of the frontier, where one must grapple with novelties as they were daily presented. Originality was the

BLACK REPUBLICANISM

Greeley and Lincoln presenting a future Republican candidate for the Presidency.

chief result. Seward might have framed a Union; he could never have preserved the Union. A man born in the strong anti-slavery State of New York was not prepared for the task of kind but firm administration instead of subjugation, and especially of restoring the Union sentiment instead of permanently alienating it. A man born in the border State of Kentucky and reared among Southerners once removed in southern Indiana and Illinois is seen in retrospect to have been the agent needed.

Nevertheless, it may be said truly that both the nomination and election of Lincoln, the comparatively unknown Western lawyer, were accidents politically. The stampeding of the Chicago Republican Convention, "held in the enemy's country," as Greeley well said, from Seward to Lincoln, was followed by a campaign conducted on similar methods taken from the West. It included exhibitions of rail fences, representing the former vocation of the candidate, popular gatherings, much shouting, and the marching of uniformed "Wide-Awakes," making a campaign comparable only with that of 1840, when a Western candidate had called forth such expedients. The Democrats in the election divided their strength between their two rival candidates. The conservatives, who hoped the people could still be deceived by such a phrase as "the Constitution of the country, the Union of the States, and the enforcement of laws," cast votes for candidates in a hopeless minority. These distractions allowed the Republicans to concentrate and so win the prize. The second presidential ticket which the

Republican party had named was successful. Such a show of strength in so brief a period of time was unknown to American political history. It had won not because of its strength, but because of the weakness of its enemies.

Even the elation of being the choice of a majority of the people was denied the first Republican President. Lincoln was elected by nearly half a million less than a vote of the majority. He was saved only through the system of presidential electors. The populous Northern States of Massachusetts, New York, Pennsylvania, Ohio, Indiana, and Illinois alone had enough electors to outnumber those from the entire fifteen Southern States. Superior numbers in the Northern section had once more told against the Southern States. They had suffered defeat from a similar cause many times in the legislative part of the Federal Union. They could see no hope for the future in that direction. They yet retained control of the Judiciary; but its decisions could be rendered useless by hostile legislation. The executive function was now lost to them and transferred to a man elected on the principles of "black" Republicanism.

The loss of Kansas to slavery, the continued violations of the Fugitive Slave law, the debarment of slave property from the Territories, and the failure to secure a guarantee of the possession of their slaves even in the States might have been endured by the Southern people in the hope that the passing of the Republican craze might bring the North again to reason and secure justice to them if they remained

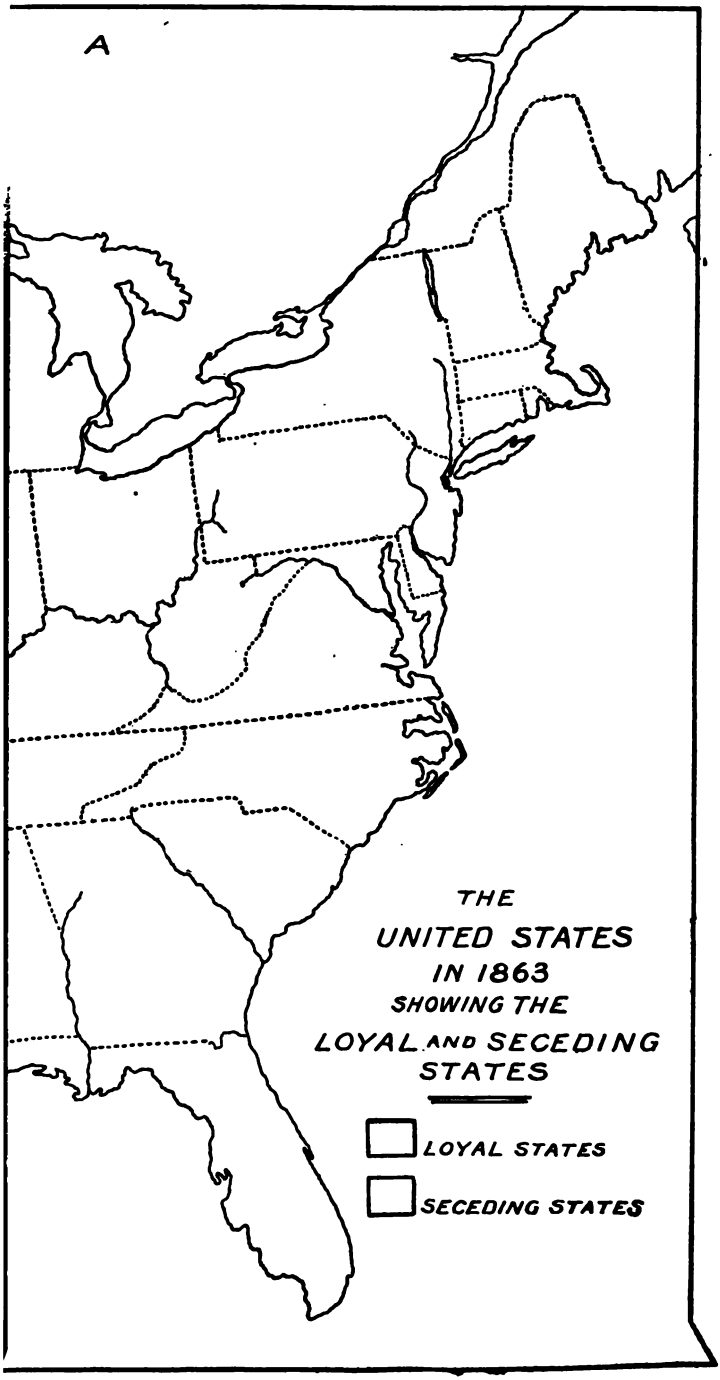
in the Union. But the election of a Republican President put an end to such hopes. Four years of that control could not be thought of. It was vain for Stephens, of Georgia, and other conservatives among the Southern leaders to point out that Lincoln was reared among border people; that he represented Republicanism and not Abolitionism; that letters from him could be shown practically guaranteeing the South in the peaceful possession of their slave property; that he believed in compensated emancipation, as did many Southern people; that his election had been legal and would not justify any revolutionary step; and that the South would not be sustained in seceding before some overt action of the new President should give warrant.

The people of South Carolina especially were in no mood to listen to moderate counsel. They had never forgotten the sacrifice they had made in 1833 in yielding to a compromise with the Union. They had never forgiven the odious "force" law, intended for their coercion. For thirty years they had waited patiently, nursing their grievances, until some event should secure the Southern co-operation necessary to make a test of secession.

If people of the other Southern States lacked the grievance which actuated South Carolina, they had as full a sense of their wrongs and as firm a belief that their prospects would be bettered by withdrawing from the partnership which their fathers had voluntarily entered more than seventy years before. Freed from the partial and sectional legislation of the Union, with the customs receipts pouring

directly into their treasuries, able to regulate their imposts to suit their individual interests, freed from the annoying discrimination about the public lands and internal improvements, having opportunity to procure the needed labourers for their fields by re-opening the African slave-trade, their aristocratic sons no longer pitted against the scum of Europe in electoral contests, the Southern States saw a great future awaiting them if they were once free from the encumbering Union. Defeat could thus be turned into victory. For this reason the Southern people rejoiced instead of bewailing the Republican victory of 1860. Nullification of thirty years before could now be advanced to secession.

For almost a century the States had been bound together in a form of Union; for more than seventy years they had been living under the same Constitution; and yet the right of secession had never been determined. The Union of the early days was one of necessity; it meant self-preservation. To be left out or to withdraw was to perish. But when prosperity brought security, dissensions began to test the strength of the bonds. Man is never so much inclined to conformity during times of prosperity as he is during seasons of adversity. The general theory of the South on the right to secede may be stated thus: Rights not specifically given to the Union are reserved to the States; the right of withdrawing from the compact is one of these reserved rights. In discussing this proposition, some drew distinctions between Texas, for instance, which came in as an independent State, implying the right to


A
THE
UNITED STATES
IN 1863
SHOWING THE
LOYAL AND SECEDING
STATES
LOYAL STATES
SECEDING STATES

withdraw, and the States formed from territory which previously belonged to the Union. The latter were purely creatures of the Federal Government. Others were willing to give the right of secession to States formed from the Louisiana or other territorial acquisition and deny it to the thirteen original States, or to States made from territory which once belonged to them. Still others thought the thirteen States which created the Union had the same right as Texas to secede, but that the power was not possessed by States created through the agency of the Union.

Many denied that any State had the right to secede. They insisted, as they had done on every occasion since the debate on the first United States Bank, that the unmentioned powers belonged to the Union and were not reserved by the individual States. They denied any reserved right of secession. They thought that the Union was created prior to the adoption of the Constitution and that ratification of the latter was simply an incident determining the manner of federating. They further claimed that the common defence and general welfare in 1860 demanded a continuation of the Union even more than they did seventy years before. The whim of one could not be allowed to endanger the safety of all.

Every instance of conflict between the Federal Union and a State since the beginnings of American national government was rehearsed by each side as an argument to prove its point. That North Carolina and Rhode Island would have been coerced

into the Union had they persisted in refusing to adopt the Constitution was claimed and as strongly denied. In truth, as frequently happens after exhausting constitutional argument, each side was depending upon the higher law of the right of revolution. Each side intended eventually to maintain its stand regardless of constitutional principles. This was at last the only possible outcome of a determination upon the one side to secede and a determination upon the other to prevent it. Virginia, for instance, was no more guilty of appealing to an extra-constitutional right in cancelling her consent to the Constitution, given seventy-three years before, than was the United States in disregarding the provision in that consent that the powers granted under the Constitution may be resumed by the people whenever the same shall be perverted to their injury or oppression; and that every power not granted thereby remains with them at their will. Constitutional theories and written words become as cobwebs when stretched across the pathway of fact.

Abstract political science is, in the last analysis, largely an adjustment of constitutional principles to changing concrete conditions. The sword is the highest tribunal; and to that bar these people, inhabiting the same continent, speaking the same language, and boasting the same descent, were determined to carry their lifelong quarrel. Puritan and Established Churchman, provident Northerner and hospitable Southerner, the manufacturer and the agriculturist, the plebeian and the patrician, the mingling Unionist and the reserved individualist,

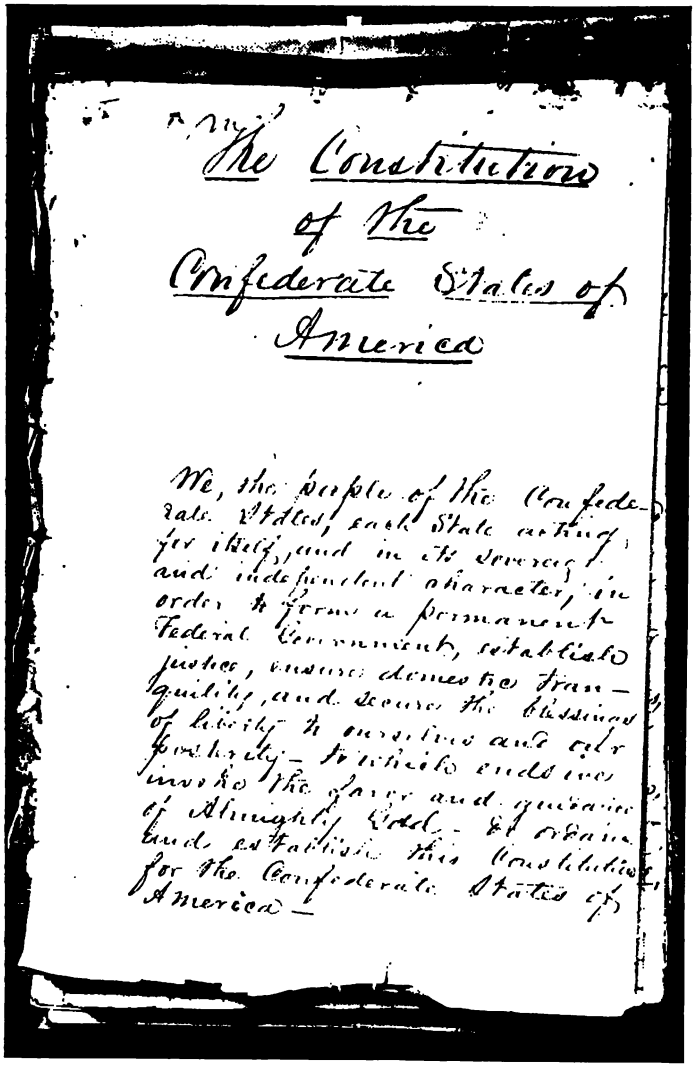
the prophet of the future and the lover of the past, the slave-hater who believed in national restriction and the slave-owner who believed in home rule—these two factions were about to put their long strife of words to the test of arms. Step by step these hostile peoples had advanced half-way across the continent, dividing their heritage between them, to be driven into war as civilisation reached the plains of Kansas.

The method selected by the Southern people for getting a State out of the Union was simply the reverse of that by which it had been brought in. It employed the same agency—viz., the people of the State in convention assembled. Led by South Carolina, the Legislatures of the dissatisfied States, either in regular or special session, called conventions which passed ordinances recalling the assent formerly given to the Constitution of the United States and declaring that the union formerly existing between them and the United States was by this action completely severed.

Likening their action to the declaring of Independence in 1776, the seceders in some States issued declarations of the reasons for seceding, erected liberty poles, fired salutes, and entered upon whatever fate might await them in the spirit of their Revolutionary fathers. They felt that they, too, were contending for home rule, self-taxation, and the personal freedom of the white man. They were taking a stand for individual movement and the rights of the individual States. But the irony of fate compelled them almost immediately to form a

new union for their common defence. The impracticability of individualism has never had a better illustration. The instinct which prompts men to combine for self-preservation against a common foe is deeper rooted in inheritance than any theory of State-rights environment. This principle brought together delegates from the seceding States in a convention at Montgomery, Alabama, in February, 1861. They drew up first a provisional and then a permanent constitution for the Confederate States of America. This was sent to the various States for adoption, presumably in proper conventions.

According to the theory of individualism, the State constitution must be referred to the individual, and this can best be accomplished by a convention of delegates called for that purpose. But the exigencies of the hour would not admit of this deliberative action. The State Legislatures were compelled to declare the constitutions adopted. Otherwise they must have been declared in effect simply by default of action. As if to prove the frequent assertions of the seceders that they did not object to the Constitution of the United States, but only to its abuse in administration, they simply took the old frame and made certain corrections tending to remove the possibility of future abuse. Protective tariffs were prohibited; legitimate internal improvements were specified; negro slaves were confirmed as property; a six-years' term was given to the President and Vice-President, the former being made ineligible for a second term of office; power to acquire additional territory was given, and slavery was guaranteed in all


The Constitution
of the
Confederate States of
America

We, the people of the Confederate States, each State acting for itself, and in its sovereign and independent character, in order to form a permanent Federal Government, establish justice, insure domestic tranquility, and secure the blessings of liberty to ourselves and our posterity — do ordain and establish this Constitution for the Confederate States of America —

FIRST PAGE OF THE PERMANENT CONSTITUTION OF THE CONFEDERATE STATES AS REPORTED BY THE COMMITTEE

This is in the handwriting of Gen. Thos. R. R. Cobb, who was a member of the committee. Taken from the original, which is in the possession of Mr. A. L. Hull, Athens, Ga.

territory added to the domain. The word "Union" wherever it occurred in the United States Constitution was consistently changed to "Confederacy," and "We, the people of the United States," was transformed into "We, the people of the Sovereign States." Contrary to general expectation, the reopening of the African slave-trade was forbidden. This would win the border States, the source of supply, and gain a favourable opinion in England, where the slave-trade was especially obnoxious. Delegates from six of the seceding States, South Carolina, Mississippi, Florida, Alabama, Georgia, and Louisiana, were in the convention which framed the Constitution. Delegates arrived from Texas in time to sign it. Thus the list of "planter States" was completed in the Confederate States of America. The ties of cotton were stronger than those of the Union, as a phrase of the day put it. The Constitution was to go into effect when adopted by any five of the seven. Theoretically, individualism demanded individual and universal consent; but the compulsion which demanded the speedy adoption of the Federal Convention in 1787 required equal haste with the Constitution of the Confederate States. The new attempt was no improvement over the old in this respect.

Amidst all these steps of secession, President Buchanan remained a quiescent, though far from disinterested, spectator. Bound by the historic beliefs of his party concerning the paramount rights of a State, strongly connected by party ties with the rebelling States, unwilling to bequeath a war to his

successor, he could only ascribe the present situation to the "long-continued and intemperate interference of the Northern people with the question of slavery in the Southern States," and beg the revolters to await some overt act on the part of the President-elect to justify their action. As a Northern man he would not admit the right of secession. He quoted President Jackson's opinion against it. He confessed that the United States Government in South Carolina had been impaired; but he insisted that Congress alone could remedy the impairment and that no power was given to the President or to Congress to prevent secession by force. Only a logician could satisfy himself that a State, on the one hand, had no right to withdraw, and the Union, on the other, no right to prevent it. He could acknowledge to the members of Congress that he was bound to execute the law, and in the same breath he could insist that on them and on them alone rested the duty of meeting secession.

Mistakes of action could be forgiven by one side at least; evasion and inaction gained applause from neither faction. In the spirit with which a man passively views the threatened destruction of his house by fire and hesitates to take measures to quench the flames lest he spread them, Buchanan adhered to his plan of masterly inactivity. To this end he refrained from sending reinforcements to the commandant of the Federal forces in Charleston harbour, which had been cooped up in Fort Sumter by the militant South Carolina seceders.

The question had frequently been raised concern-

ing the ownership of the United States property within the seceding States in the event of secession. Its total value was estimated to exceed forty million dollars. It consisted of forts, arsenals, navy yards, hospitals, mints, custom-houses, and post-office buildings. Were they built by the States represented in the joint partnership of the Union, or were they built by the people of the United States in the aggregate, and regardless of State boundaries? Jurisdiction over the ground occupied by these improvements had usually been granted to the Federal Government by the Legislatures of the several States in which the property was to be located. This jurisdiction might be reclaimed, according to the theory held in some of the States, by the right of eminent domain. South Carolina commissioners attempted to purchase the United States property located within her boundaries, but were met by a prompt refusal from the Federal authorities. Others held that the title had passed inalienably to the United States of America. Regardless of theory, one fact was evident—that the control of all forts and arsenals within a State was absolutely essential to that State, whether an attempt was made to coerce her back into the Union or not. In this state of uncertainty concerning the common property, Abraham Lincoln was inaugurated. A fortnight later the fear that he intended to relieve Fort Sumter caused the Confederate forces in the adjacent forts in the harbour to open fire upon it. Forced to surrender, it became the property of the seceding State of South Carolina. In this way the

Civil War was precipitated over the question of the possession of the joint property in the attempted dissolution of the partnership. It was one of the unsettled questions which all the theories of political science and the efforts of statesmen alike had been unable to determine in advance.

That fortnight had been an anxious one for the new Executive as well as for the nation. He rode to the Capitol on the day of his inauguration with the weapons of over six hundred national soldiers about him, some troops even occupying the house-tops along the way for his protection. As he took the oath of office, the head of the Federal army, who stood near a field battery in the Capitol grounds, exclaimed "Thank God!" with a sigh of relief. No other President had been inaugurated under such circumstances. The Presidency which he assumed was that over an apparently dissolving Government. His authority would be recognised over only a part of the national domain. Another President, Jefferson Davis, had taken an oath at Montgomery, Alabama, on United States soil only a few days before. The Constitution which the President of the United States had sworn to preserve, protect, and defend had been repudiated by seven members of the confederated Republic. In this emergency, Lincoln might have declared even peaceful secession a phase of rebellion to be put down by force under his authority as Commander-in-Chief of the army and navy. He had for precedent the example of Washington and the insurrection in western Pennsylvania, as well as Andrew Jackson and South Carolina. He

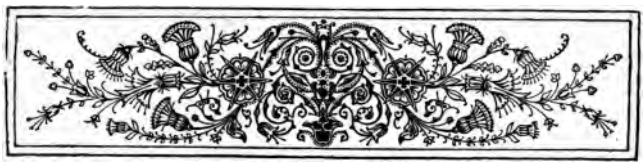
might have consented to arbitrate with agents of the Confederate States, thereby recognising their existence. He had many examples in the various compromises of the past. He might have admitted the validity of secession and exercised his authority over the remaining part of the United States. But he chose to consider the Union as existing unbroken and its claim over its entire domain unimpaired. In his opinion the Union rested on perpetual principles of association for mutual protection, first called into being at the beginning of the American Revolution.

The Union was to Lincoln very much older than the Constitution; it was even older than the States. Ordinances against it were null and acts of violence toward it constituted insurrection to be repressed at any cost. There was only one way open to him—to execute the laws of the United States in the seceding as well as the loyal States. In the wisdom of this simple conclusion, posterity is bound to concur. In the call for seventy-five thousand volunteers, as an addition to the regular forces, Lincoln stated that they would probably be used in repossessing the forts, places, and property belonging to the Union which had been seized. He would not admit that United States troops could not be sent at will from one portion of the Union to another, regardless of State boundaries. So far as the Federal control was concerned, States were no more sacred in his mind than counties. But to the Southern mind, an attempt to repossess the United States property would necessitate the invasion of a sovereign State by force. This would constitute a

hostile act. Repossession could be accomplished only by coercion, and for the coercion of a State there was no authority whatever in the Constitution. It could be interpreted only as a war conducted by the Union upon a State. This was the culmination of Federal encroachment upon the rights of the States.

For these reasons, Virginia, North Carolina, Tennessee, and Arkansas chose to secede and follow the planter States rather than aid the Union in making war upon them. They constituted the northern tier of the Southern States, coming into geographical contiguity with free soil only in the western portion of Virginia. Their resentment at the personal-liberty laws was as sharp as that felt in the Gulf States. Their loss from fugitive slaves was proportionately as great. Their fear of "black" Republicanism was as strong. That they could have been saved to the Union scarcely seems possible in retrospect. Eleven of the States south of the line between slave and free had withdrawn. Four others, Delaware, Maryland, Kentucky, and Missouri, the so-called "Border States," were kept from seceding by political and military efforts.

The peril which Buchanan wished to avoid, that of further endangering the structure by the effort to quench the fire, had been precipitated by Lincoln. His "divided house" bade fair to fall by his own actions. The effort which he felt compelled to make to save the Union had further endangered its existence. A sufficient number of States were in the new enterprise to test fully the theory of secession. Would it be admitted or resisted by the remainder?



CHAPTER XIV

THE UNION COERCES THE STATES

THE call of President Lincoln for seventy-five thousand volunteers left the seceders in no uncertainty that coercion was to be applied to keep them in the Union. The right of secession was to be denied and to be opposed by force. The party in control of the National Government was descended in principles from the old Federalists and Whigs. Upon the issues of a protective tariff, of internal improvements, and of constantly enlarging the activities of the central agency, the Republicans were worthy descendants of Hamilton and of Clay. It was true that they were strong supporters of the theory of the implied powers. But they were unwilling to include the right to secede from the Union among the implied powers. The power to coerce a State into remaining in the Union was nowhere denied and hence was claimed by the party in control. Coercion was to be applied to sovereign States. Far from being alarmed, the seceding people were

prepared to welcome it. Toombs, of Georgia, had said in the preceding November: "I ask you to give me the sword, for if you do not give it to me, as God lives, I will take it myself."

The more sober-minded leaders among the Confederates sat down to compute the relative strength of the combatants in the appeal to arms. Eleven States had passed secession ordinances. Ranged against them were eighteen States undoubtedly faithful to the Union. Between these two sections lay four border States, Delaware, Maryland, Kentucky, and Missouri, forming a long neutral strip from the Atlantic to the Mississippi, by including the western portion of the seceding State of West Virginia. Even if these could be persuaded into seceding, the dissidents would number only fifteen against the eighteen loyal States. The States remaining attached to the Union contained over eighteen million white people, and the seceding States had less than one-third as many. The Southerners had a certain advantage in their five and a half million slaves, who could be left at home to till the fields or be taken with an army to build fortifications, leaving the white men free to serve as soldiers. Virginia, Georgia, Mississippi, Alabama, and South Carolina were the largest slaveholding States, having about an equal number of bondmen. Louisiana, North Carolina, and Tennessee formed a second class. Texas, Arkansas, and Florida contained comparatively few slaves. To offset these slaves as producers were the thousands of skilled labourers, artisans, and engineers of the Northern

States. For every dollar in value of manufactured goods which the seceding States produced, the Northern States produced more than ten dollars' worth. The total value of products in the New England States alone was over four times that in the seceding States. Arsenals and manufactories were located generally in the Northern States, where water-power could be found. The seceders had to depend upon raw material and home-made goods. In a quick, decisive war, the South, with its leisure class born to command, its military schools, its rural riflemen, and its fiery temperament, would have a decided advantage; but if the war should be protracted until numbers, resources, and manufactures made endurance a crowning test, then the loyal States must inevitably starve the seceders into submission.

Conservatism has been called the curse of the South in those critical days. The tendency of the world was toward individual freedom, yet Southern leaders held fast to slavery. The great era of manufactures was full upon America, yet the South clung tenaciously to agriculture. World-comity and world-mingling marked the coming order of things, yet exclusiveness and class feeling dominated the South. The dawning industrial era demanded an infinite variety of mineral and agricultural products, yet Southern hopes and prosperity rested exclusively upon cotton.

Southern leaders based much of their hope in the event of war between the sections upon the foreign demand for American cotton. The American

States practically supplied the world with this commodity. England alone imported nearly five million bales annually from the Southern States. It was unlikely that foreign nations would permit this supply to be cut off by blockade or other arts of war. "When you shut out our cotton from the looms of Europe," said a Georgia Senator addressing his Northern colleagues, "we shall see whether the other nations will not have something to say on that subject. Cotton is king, and it will find means to raise your blockade and disperse your ships."

The commissioners sent to Europe by the Confederate Government soon learned the basic weakness of the Confederacy—viz., that it was attempting to perpetuate slavery when the world-tendency was toward freedom. France had at this time returned to absolutism under the control of Napoleon III., yet his privy councillors frankly told the commissioners that the French people remembered too well the principles of the French Revolution for them to risk aiding a slaveocracy. The people of England, although living under a monarch, were so attached to human freedom that they preferred to have their mills closed and their poor-rates increased rather than to assist even indirectly an enterprise founded apparently for the prolongation of the slavery system. During the first year of the war the tentacles of a blockade were cast about the Southern ports without protest from Europe. Until the force of the navy could be increased, the closure was largely a "paper blockade." Although

EUROPE AND THE CONFEDERATE STATES OF AMERICA

Victoria and Napoleon refuse the offer of President Davis. A cartoon issued in 1862.

this was inconsistent with the contention of the United States since the days of Napoleon, it was endured by Europe. Even vessels loaded with stone and sunk in Southern harbours, a proceeding unknown to international law, brought no official opposition.

Two years after the unexpected opening of hostilities, the amount of cotton arriving in Europe from America was less than one five-hundredth of the former annual importation. Cotton was selling for eight cents a pound in the blockaded port of Charleston and at an equivalent of fifty cents a pound in England. The four and a half million bales raised in the Southern States in 1860 shrank to a half-million for the years 1863 and 1864. Yet no nation of Europe recognised the Confederate States as a sovereign power. In that event the blockade could not have prevented the exportation of cotton, which was not a contraband of war. The United States was left alone to conquer the seceders if she could, the European nations assuming an official attitude of neutrality. Because cruisers were built for the Confederates in European ports and because European merchants supplied equipment for them, an impression prevailed in America that the British Government in some way recognised the independence of the Confederate States. It declared them belligerents. Otherwise it must have regarded them as pirates.

Some cotton reached Europe by "blockade runners"; the United States Government exported still more; and a new source of supply was found chiefly

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in India. A powerful stimulus was given to attempts to grow cotton elsewhere. In the London exhibition of 1862 samples were shown from no less than thirty-five countries, perhaps the best coming from the East Indies. In the exhibition of ten years later only a few of these temporary sources of supply were represented. The Southern States of America were producing and exporting again, and had driven all competitors from the field. The cotton famine of Europe, so fully expected by the seceding States, failed to come. "King Cotton" proved to be a fallible monarch, and one of the strongest hopes of the Confederacy was dashed.

The Southern people placed much dependence upon the binding strength of the Mississippi River. During the larger portion of national history it had formed a tie between North and South on the west side of the Allegheny Mountains, apparently stronger than the bonds existing between the East and the West. The fight for the free navigation of the river had bound the Southern and the Western interests together against the Eastern ocean traders. The common cause of securing internal improvements had knitted them more closely together. The Mexican War further united the Middle West and the Gulf States. The trade centring in New Orleans had reached enormous proportions about 1850. The produce from at least six free States was discharged into that city. But the transportation system of the continent had undergone a marvellous change in the following ten years through the extension of railways. Flatboats still found their

tedious way down the Mississippi; but for every pound of produce that reached the ocean trade on that route a hundred pounds were shipped over the several lines of railroads directly to the Atlantic coast. The same railroads carried settlers from the Eastern States and migrants from Europe to people the upper Mississippi valley, each class being in favour of free labour and opposed to slavery. Looking toward the past, as the Southern people did at this time, they overestimated the influence which the direction of the river gave them among the Western States.

The seceding States also hoped for some support from their Northern Democratic brethren. No one could estimate how far the theory of State rights or of secession held among the Northern people. In congressional debates the Southern doctrine of individualism had frequently been upheld by Democratic statesmen from the Northern section. But, as has been said, party ties had been constantly growing weaker during the decade. It was undoubtedly true that the first impulse of a majority of the people living north of the Mason and Dixon line was to permit the discontented to withdraw rather than to force them to remain in the Union. Concord seemed impossible. Better a united portion of the people than a quarrelsome whole. Greeley said: "Let them go. Let them found a government based on slavery and see how soon it fails." This was accepted by Republican and Democrat alike. Oliver Wendell Holmes, whom no one could accuse of catering to Southern ap-

plause, said in *Brother Jonathan's Lament for Sister Caroline:*

"Go, then, our rash sister! afar and aloof,
Run wild in the sunshine away from our roof;
But when your heart aches and your feet have grown sore,
Remember the pathway that leads to our door!"

The firing upon Fort Sumter by the Confederate general in command of the forces in Charleston harbour on the morning of April 12, 1861, completely changed public opinion in the North. Not a man was killed in the engagement which preceded the surrender of the fort; but the Union flag had been lowered and a disgrace inflicted which could be atoned for only with blood. The Southern people, formerly thought of as brethren, were transformed into foreign foes. This sentiment placed the Union in a new light and made it a precious thing. Stephen A. Douglas reiterated his advice to his followers to stand by the Union regardless of party. The homely saying of Lincoln that secession was at last only sugar-coated rebellion began to be accepted as true. Whether any other course was open to the Confederate authorities is a matter of conjecture. Assuredly the firing upon the fort was unfortunate. It gave colour to the accusation that the seceders were forcibly rebelling against the lawful owner of the fort. The delay of the Federal authorities had allowed the other side to assume the aggressive. It now seemed to be a war for the preservation of the Union against a militant foe.

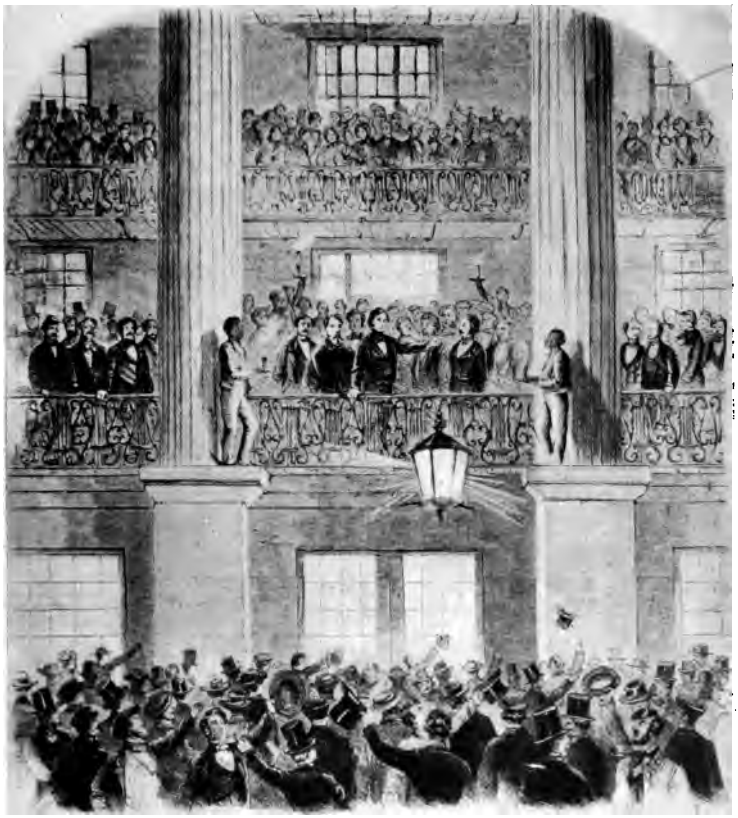
To the charge of bad faith on the part of the Northern people in suddenly deciding to oppose secession, it was pointed out that public opinion had never lined up on the disputed theories of the nature of the Union or of the proper residence of the silent power. The people are never concerned with theories. It was only when these abstract principles involved territory or human beings that the masses became interested. When Sumter was fired upon, the Northern people had no definite opinion concerning the right of secession. But the firing was a concrete thing. The Administration announced it as a war for the suppression of rebellion and the preservation of the Union. This doctrine could be understood and was supported by the North. Nevertheless, back of these rather theoretical explanations of the causes of war, the slave was to be found as usual.

Less than a year of war along these lines was required to transform it in public opinion into a war for the preservation or extinction of human slavery. The negroes themselves were largely responsible for changing the aspect of the war. They left the plantations in large numbers as the Federal forces invaded the Southern States, and they flocked into the camps, where they were sheltered in direct defiance of the Fugitive Slave law of 1850. General Butler, of Massachusetts, was responsible for the novel assumption that a negro sent to work on a Confederate fortification was furnishing aid to the enemy and was therefore a contraband of war. Thereafter every negro coming into a Federal camp

claimed that he was about to be sent to the fortifications at the time he escaped. The theory was eagerly accepted in the North as a machine of the gods. Butler was declared to be the best lawyer between shoulder-straps. To injure an enemy by confiscating his contraband goods has always been considered legitimate. Northern people forgot that they had always denied that slaves were property. They applauded Congress in passing the first confiscation act which liberated all slaves serving the Confederate forces.

The second confiscation act, July 15, 1862, extended confiscation and resulting freedom not only to slaves employed against the United States, but to the fugitive slaves of all masters in rebellion against the authority of the United States. This was a most important action, since it nullified the Fugitive law of 1850. The war had progressed to a point where compromise was no longer considered sacred. By this act, officers of the army and navy were even prohibited from returning runaways to their masters. Nevertheless, for fear of working injury to the loyal slaveholders in the border States, the law of 1850 was not repealed until 1864.

The second confiscation act was not only an efficient punitive measure, but it relieved the President from the unpleasant task of compelling Federal officers to obey a national law. He had been obliged to discipline several of them for their zealous sympathy with the condition of the slave. He was also allowed by Congress to enlist negroes as troops. This was an action greatly deplored by the



THE BIRTH OF THE CONFEDERACY

"The Hon. Jefferson Davis, President Elect of the new Southern Confederacy, addressing the citizens of Mobile, Alabama, from the balcony of the Exchange Hotel, on the night of February 16, 1861, and previous to his Inauguration."—From *Frank Leslie's Newspaper*, March 16, 1861.

Southern States because it might induce an insurrection of the blacks. The slave code had always rigidly prohibited giving arms to a negro. The entire experience of the Union with the black troops showed what a force the South had lost through this fear. At about the same time Congress also prohibited slavery in all territory belonging to the United States and emancipated by purchase from their masters all slaves in the District of Columbia at a uniform price of three hundred dollars each.

The United States had now exhausted every legal and constitutional power which it possessed for the extinction of slavery. Yet the number of slaves emancipated under these various acts was exceedingly small. According to the census of 1860 there were 3185 slaves in the District of Columbia and twenty-nine in the Territory of Utah. The number of contrabands in the camps probably did not more than double the number. It was a small share of the four million slaves in the United States. It was simply a beginning. Whatever might be accomplished hereafter in Abolition must proceed from the individual States, or from the Confederacy, or from the extra-constitutional acts of the representatives of the United States Government.

Compensated emancipation had long been a hobby of Lincoln. Combined with colonisation he thought it the solution of this national problem. In 1849, during his one term in Congress, he had offered a bill for the purchase of the slaves; but in 1858 he had confessed: "If I had supreme power, I do not know what to do [with slavery]." He had gradually

returned to the old idea of buying the slaves. The suggestion had many supporters in the people of the border States, among whom Lincoln had been born and reared. Encouraged by the application of the plan to the District, he urged it upon the border statesmen. Congress had already made an offer of this kind. But it was too late. The border States were divided in opinion and torn by being made the battle-ground between the foes. It was also questionable whether Lincoln could have overcome the opposition of those Northern men who refused to enrich in this way the slave-owners by taxing themselves, or to acknowledge that human beings were cattle to be bought and sold. In both North and South the scheme was denounced as visionary. At the average rate of $300 each, the slaves in the border States alone would cost the Government $136,332,300. If the rebellious States also accepted the offer, the total expense would not have been less than $1,049,508,000, as Pollard, a Southern writer, estimated it. It is interesting to note in this connection that the national debt was increased during the war a total of $2,708,393,886. Compensated emancipation was not such an impractical thing as many pronounced it so far as finances were concerned.

No border State accepted the offer of Congress to purchase its slaves, and Lincoln most reluctantly turned to some other plan. Day by day he saw himself being pushed in his conduct of the war into the attitude which he had always condemned,—that of the Abolitionist. He saw himself forced to interfere with slavery in a State; to do what his party and himself

had constantly denied they had either the right or the inclination to do; to abandon the powers conferred on him, or even suggested by the Constitution, and to call into being for the first time in the history of the United States the measures commonly called the "war powers." Both Congress and President had verged upon these extra-constitutional acts before 1863. The Constitution provides that "the privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it." Lincoln ordered the suspension of the privilege over large extents of territory and in many specific instances in Northern cities. Hundreds of editors, public speakers, and suspicious persons were imprisoned and refused a writ. The action was attacked by those who claimed that secession was not rebellion and by those who insisted that the public safety did not demand the suspension. Lincoln even extended his powers to transporting Vallandigham, an Ohio Democrat, across the Confederate lines for hostile public speeches. Chief Justice Taney rendered an opinion adverse to the suspension of *habeas corpus* by the President in the case of *ex parte* Merryman; but Lincoln paid no more heed to the decision than Jackson gave to the opinion of Marshall in the case of the Georgia Indians. The blockade of the Southern ports was a punitive measure recognised by international law, but not mentioned in the Constitution. A Federal Circuit Court in New York relieved Lincoln of this difficulty by declaring that the imposition of a blockade is a power involved in

the position of the President as Commander-in-Chief of the army and navy.

Similar doubts were held concerning many of the actions of the President in the beginning of suppressing the rebellion. It was felt that they belonged to the legislative instead of the executive department. Yet if Lincoln had awaited a session of Congress in each instance, the delay might have been ruinous. Manifestly the only course was to enact into a law all proclamations issued by the President and so legalise them. Although this was a confession that he had exceeded his authority, a validating act was passed March 3, 1863.

Congress by its own actions was also daily adding to the power of the Union. The law of 1863, requiring an enrolment of all citizens between the ages of twenty and forty-five, and permitting a draft to be made upon them for military service, was the most advanced step taken by the Federal authorities. The Constitution nowhere contemplated a military service other than that of the State militia, the State reserving the privilege of training its soldiery and appointing its officers. Yet the draft was administered by United States provost marshals regardless of the State authorities. The advance of seventy years is seen by contrasting the draft with the State-militia method upon which the United States had heretofore depended for a supplementary military force.

To the secessionists the acquiescence of the Northern people in these usurpations of Congress and President was inexplicable. They could not under-

stand the "curious disposition of the Northern people to surrender their liberties," as a Southern editor said. It was due to a desire to put down the secession movement at all hazards, as well as to the confidence the majority of Northern people felt in one of their number temporarily elevated to the leadership. Being a plain man of the people, his language could be understood by them and his motives appreciated. They willingly entrusted him with more power than any modern monarch has enjoyed.

Lincoln's persistence in returning the fugitive slaves from the Federal camps, due to a desire to exhaust the peace powers before calling up the war powers, was misconstrued by the radicals into a hesitation to act in behalf of the negro. Editors, clergymen, officials, and thousands of conscientious people, whom the progress of the war had converted from anti-slavery men to Abolitionists, assured Lincoln that the use of a general emancipation as a war measure should be included in his actions; that slaves working on a plantation and raising food wherewith to feed and clothe the Confederate troops were giving aid and comfort to the enemy as truly as those who were compelled to work upon fortifications. These people argued that two years of bloodshed had been endured, that thousands of lives had been sacrificed, and yet the masses of slaves, the real causes of the war, still groaned in bondage. Chase and the radicals in the Cabinet, Sumner and the radicals in the Senate, Thaddeus Stevens and the radicals in the House, united in urging upon the hesitating Lincoln immediate emancipation as a war

power. Such action was entirely inconsistent with the resolution of July, 1861, by which Congress had solemnly resolved that the war was not waged for the purpose of overthrowing or interfering with the rights or established institutions of the rebellious States.

As the days passed on and the South showed no sign of being conquered, the Northern people turned more and more to emancipation as a means of injuring the enemy and so ending the long conflict. Greeley wrote an open letter to Lincoln embodying the "Prayer of Twenty Million" people. Politicians hinted that the autumn elections were likely to go against the Republican party. Lincoln most reluctantly yielded. In the light of later events, he was saving the Northern people from themselves by retaining the fabric of constitutionality as long as possible before taking up the fearful instruments of the war powers. He was preserving the inherited, law-abiding instinct of the Saxon. He was preserving it among the people against the coming days of reconstruction, when the radicals would have held one portion of the people subordinate to the other, and thereby hopelessly impairing the representative principle of self-government.

> "Safe in himself as in a fate.
> So always firmly he;
> He knew to bide his time."

Unwilling, when the limit of Northern endurance had been reached, to deprive the Southern people

of one more opportunity of saving their property, the President issued a proclamation giving them one hundred days in which to lay down their arms. The penalty of non-compliance would be having their slaves set free at the end of that period. But the Southern mind, ignorant of the new sentiment among the Northern people under which Lincoln acted, saw only duplicity in a man who one day protested and allowed his advisers to protest that no interference would be made with slavery where it already existed, and the next day issued an emancipation warning. Would he be likely to carry out this threat or might not another change of policy come within the hundred days? They imagined that he had changed the purpose of the war from preserving the Union to freeing the slaves. If they refused to obey his mandate financial ruin would result. But there are misfortunes worse than financial loss. Dishonour would be the price of accepting his offer. In the face of a series of victories upon the battlefield, with the Confederate army almost in sight of the city of Washington, it is not remarkable that the one hundred days were allowed to expire without a State or part of a State taking advantage of the offer of clemency in order to save the slave property.

Over three million slaves were given their freedom by the Emancipation Proclamation of the first day of January, 1863, since a majority of all the masters of slaves were in rebellion, and those emancipated under a previous action constituted but a small fraction of the whole. Officially the bondmen

were free; but so far as any immediate freedom resulted for the mass of slaves, the proclamation was not worth the paper it was written upon. Like the Declaration of Independence, its value would turn on the possibility of sustaining it by arms. The first effect of the action upon the South was simply to stimulate the people to greater exertions. They were now fighting not only for the principle of secession, but for their property and for their future economic salvation. Without slave labour they believed the South must perish. Of other industrial possibilities they never dreamed.

The Emancipation Proclamation of itself was worthless in another particular. Congress had enacted confiscation measures and the President had extended it as a punitive action. But the slaves of loyal masters, chiefly to be found in the border States, were not affected. Even if successful, it would be a war for the freedom of a part of the slaves. The existence of the system was recognised by the Constitution. Manifestly the only method of complete eradication was a prohibitory amendment to the Constitution. Confiscation and emancipation were war measures. They might not endure beyond the course of the war. The Constitution alone is permanent and an amendment as enduring as the main body of the instrument. In 1865, feeling that in the second election of Lincoln the people had sustained his action and that of his party, Congress proposed to the States as the Thirteenth Amendment to the Constitution the few lines which had made the North-west Territory free, had served

McCLELLAN AND LINCOLN IN THE CAMPAIGN OF 1864

The legend below this cartoon makes McClellan as Hamlet say: "I knew him, Horatio; a fellow of infinite jest . . . Where be your jibes now?"

as the Wilmot Proviso, and had been incorporated into many Northern State constitutions. To show that slavery hereafter was under national and not State control, the phrase "Congress shall have power to enforce this article by appropriate legislation" was added.

This amendment, said to contain the full fruit of the war, had to be ratified by the Legislatures of three-fourths of the States before it would become a part of the Constitution. The total number of States had been increased, by the admission of Kansas, West Virginia, and Nevada, to thirty-six. Of these the assent of twenty-seven was necessary in order to validate the amendment. The Northern States could be depended upon for favourable action, but they numbered only twenty-one. Even if the four border States could be persuaded voluntarily to deprive themselves of their property by adopting this amendment, the number of acceptances would be brought up only to twenty-five. It was difficult to see how the amendment could be secured unless some of the rebellious States could be fully conquered, forced back into the Union, and in some way be made to pay the penalty of their revolt by adopting the amendment. The task would be easier because the conquest of the States could not be accomplished simultaneously. The time when each would be ready for restoration to the privileges of the Union would depend upon the degree of success of Northern arms. Indeed, within eighteen months after the firing upon Fort Sumter, sufficient advance had been made in the States of Arkansas, Louisiana,

and Tennessee to warrant Lincoln in appointing temporary governors and trying to reconstruct the State governments.

Abundant opportunity was here offered to show what Lincoln's plan of reconstruction was. To his simple way of thinking, no State in rebellion had ever been out of the Union. Simply some of the people in each State were in rebellion. When they were set right the State could resume its functions. He could imagine the Union existing without the people, and he could think in the same way of the State. The reconstruction of a State was to him a task no more complicated than simply the resumption by the State of its normal condition. In December, 1863, he had issued a proclamation that all persons in any State who would take a new oath of allegiance to the Constitution and agree to abide by all acts of the National Government concerning slavery should be granted full pardon; and that whenever one-tenth of the voters in any State should so resume their loyalty they should be allowed to re-establish the State government, with the former name, boundaries, constitution, and laws, if they wished, making only necessary changes. But when Senators and Representatives from Arkansas and Louisiana, elected under Lincoln's plan of reconstruction, presented themselves to Congress in 1864 they were rejected by that body on the ground that they had been chosen by a small part of the people of their State. The elections had been held under military protection. Some of these reconstructed representatives came from States in

which the presidential proclamation of 1861, declaring a condition of rebellion had not yet been recalled. Legally they were still in rebellion against the Government of which they wished to become officials.

It was true, as Congress claimed, that the President had no constitutional power to set up these provisional governments. Congress alone could guarantee to each State a republican form of government. But Lincoln saw that reconstruction was a political and not a constitutional problem. The Constitution did not provide for secession; neither did it provide for reconstruction. If he had waited for authority in the Constitution, the restoration of the seceding States could never have been accomplished. Congress assumed that the revolting States had really been out of the Union, and that their existence as States was nullified. Congress, therefore, claimed the initiative of reconstruction because Congress alone could create new States from Territories. They passed the Wade-Davis reconstruction bill in midsummer, 1864, designed to take away from the President the power of reconstructing the rebellious States. It required the participation of a majority of the voters in any State in order to inaugurate resumption, demanded the formation of a new State constitution forbidding slavery by a popular convention, and made the approval of this constitution by Congress a prerequisite for the full readmission of the State to the Union. These steps were precisely those required of a State in being created from a Territory; but a compliance in the

populous Southern States and in their disturbed condition would have postponed their resumption almost indefinitely; would have turned the States over to military occupancy at the end of the war or to anarchy after the troops should be withdrawn; and would have destroyed the progress already made in some States toward reconstruction under the presidential plan. To the great disgust of the Congressional leaders, Lincoln allowed the bill to die by a pocket veto. "We shall have the fowl sooner," said he, "by hatching the egg rather than by smashing it." The radical Republicans in Congress issued a violent manifesto against the presidential veto; but they could not muster strength enough against the "constitutional" or conservative Republicans and the Democrats to pass the measure at the next session. Lincoln's plan of reconstruction was therefore assured a fair trial. He did not insist that Congress should admit Senators and Representatives from his reconstructed States. He left that matter to Congress. He thought his duty extended only to putting in motion the machinery whereby they were elected in the States. He even inaugurated his plan in a fourth State, North Carolina.

At this critical moment death stepped in to undo the work of Lincoln, to bring in a successor who lacked many of his qualities, and to determine the popular estimate of him for all time. His death was destined in its results to establish permanently the relations between the National Executive and legislative powers, to eradicate the last vestige of

another revolt from the Southern mind by an experience of military rule, and to complete the work of the war by submitting the political life of both peoples to the refiner's fire. It was further destined to make compulsory by a momentary enthusiasm the task of properly caring for the black products of the slavery system and to reimpress upon all the benefits of representative government by a temporary departure from its principles. All this and more was experienced in the few years of reconstruction after the country had been deprived of the guiding hand of Abraham Lincoln.

CHAPTER XV

RECONSTRUCTING THE REBELLIOUS STATES

THE battles of Gettysburg and Vicksburg, July 3 and 4, 1863, marked the zenith of Confederate ascendency. The Vice-President of the Confederacy, on his way to Washington ostensibly to arrange for more humane methods of warfare, but really in hopes of offering terms to the defeated Union, was stopped on the way by the unexpected defeats. Thenceforth the war was simply a test of Southern endurance, backed by Southern pride and spirit. The evacuation of Richmond, the Confederate capital, April 3, 1865, was practically the end of the four years of war. In order to invade the eleven seceding States and coerce them into remaining in the Union, the Federal authorities had been compelled to fight more than two thousand battles and skirmishes, to employ more than three million soldiers, and to increase the public debt more than two billion dollars. During the four years of war, probably a million lives had been lost. American maritime interests had been so impaired by blockades and the distractions of warfare that

they have never been able to regain their former supremacy.

The secession "cause" was hopelessly lost. Its supporters had been starved into submission. It was estimated that they had about fifty million dollars in specie in their section when hostilities began; but, all sources of revenue being speedily cut off, this gradually disappeared in the demands of war. The fifteen million dollars secured by floating bonds were soon spent and returned to plague the venders with back interest. Six hundred million dollars of paper issue, as artificial as the Continental currency of Revolutionary days, rapidly fell to worthlessness and public contempt. These financial losses evidently would burden the South for years to come; but they were not so difficult to bear as certain less material misfortunes. Theories and precedents, cherished by past generations, had been crushed by the iron hand of force. The right of secession, the voluntary compact of the Union, the privilege of home rule, the caste of birth, and the blessings of individualism—all were lost so far as their practical benefits were concerned. No prospect was held out that truth crushed to earth would ever rise again.

Father Ryan, the poet-priest, voiced the sentiment of the Southern people in his *Conquered Banner*:

> " Furl that banner, for 't is weary;
> Round its staff 't is drooping dreary;
> Fold it, furl it, it is best.
> For there 's not a man to wave it,
> And there 's not a sword to save it,

And there 's not one left to lave it
In the blood which heroes gave it;
And its foes now scorn and brave it;
Furl it, hide it—let it rest."

To one unfamiliar with the course of events following the Civil War, the present attitude of the Southern people might be inexplicable. Not the financial ruin, not the regret for the dead, not the defeat of the principles of their fathers, not the humiliation of being conquered in fair combat, rankles in the memory of the Southerner as does the treatment accorded the conquered in the process of "reconstructing" them into the Union. The most patent fact of their defeat was that they were bound interminably to their conquerors. Their vision of a separate republic had vanished. Again and again during the course of the war they had declared that they would never submit to re-entering the yoke with the Yankees. A few of the leaders fled to Europe and a few to Mexico, where the attempt to found an empire under Maximilian offered opportunity to soldiers of fortune. Jefferson Davis was captured, much to the disappointment of President Lincoln, but never brought to trial. The masses, beaten and defiant, exhausted and unyielding, must take up the burden of resuscitating an exhausted land and reconciling themselves to their new economic conditions. Above all, they must live with four million blacks, formerly their bondmen, now become their burden.

Whatever theories were still held at heart by the

MEMORIAL MEETING FOR PRESIDENT LINCOLN

Held in the Court-House Square, Bloomington, Illinois, Sunday, April 16, 1865. From a photograph.

subjugated secessionists, the doctrine of retained State sovereignty was practically dead. Redress of grievances against unconstitutional encroachment of the Central Government could be sought neither in nullification nor in secession. As a minority, they must put themselves at the mercy of the majority. No remedy remained but in petition, in remonstrance, and in an appeal to the Supreme Court of the Union. The second logical deduction from the failure of the war was that slavery in the United States was exterminated. The slaves in the rebellious States had been practically freed by the Emancipation Proclamation; the institution could not be maintained in the border States only; it would be best for all to acknowledge the inevitable by accepting the proposed Thirteenth Amendment to the Constitution. Lincoln had called it "a king's cure-all" for the ills which had hitherto afflicted the body politic. Before the close of the year which saw the surrender of Lee and the assassination of Lincoln, the amendment had been adopted by sixteen Northern and ten Southern States, making the requisite three-fourths' vote. Slavery was henceforth prohibited on American soil. The United States had purged herself of the shame which made her obnoxious to civilised nations.

Andrew Johnson, who became President upon the death of Lincoln, was singularly like his predecessor in his humble origin, his self-education, his constitutional views, and his sympathy for the subordinate classes of the South. But in breadth of vision, kindliness of nature, and real humility of spirit the

two men were almost antipodal. Johnson, in one of his first addresses as President, showed that he held precisely the views of Lincoln upon the condition of the resisting Southern States, and intended to carry out his policy toward them.

"Some are satisfied," said he, "with the idea that the States are to be lost in territorial and other divisions—are to lose their character as States. But their life-breath has only been suspended. It was a State when it went into rebellion and when it came out without the institution [slavery] it is still a State."

He thought that it was necessary only to find enough Union men to resume—"to move the ship of state," as he put it. He honestly endeavoured to carry out Lincoln's plan, but in Andrew Johnson's manner. To illustrate: Lincoln had exempted from his pardon certain classes, those who had held high office in the Confederate army and the like. To these Johnson added, as a class, "all whose taxable property is over twenty thousand dollars." Oversensitive to the fact that he had once been a tailor, and hating the upper classes of the South from which he had always been debarred, Johnson was taking this opportunity of revenge. He thought the mass of Southern people had been

"deluded and deceived, and been made the victims of the more intelligent, artful, designing men, the instigators of this monstrous rebellion. The number of this latter class," said he, "is comparatively small. The former may stand acquitted of the crime of treason—the latter

never; the full penalty of their crimes should be visited upon them. To the others I would accord amnesty, leniency, and mercy."

By excepting the wealthy and influential people from the benefits of his amnesty proclamation, he would compel thousands of them to appeal personally for pardon to the former tailor, now become President of the United States. Later he confessed that he did not know how many he had pardoned, "certainly more than any previous President," he said. The threats of official vengeance upon the "rebels," which marked his advent to office, had been speedily forgotten in his desire to satisfy a personal revenge.

Seven months must elapse after Johnson assumed the Presidency before Congress would meet unless he called a special session. During that time Johnson had full opportunity to put into execution his tolerant and easy plan of allowing the people of the respective States, both loyal men and those who had been pardoned, to resume the functions of their States. He appointed provisional governors for each of them except Virginia, Florida, and Texas. State conventions were called, civil governors elected, Legislatures assembled, and Senators and Representatives chosen to Congress. Federal Courts were opened in the formerly rebellious States, the laws of the United States enforced, blockades removed, custom-houses reopened, and the postal system extended to all portions of the country previously served. Hundreds of secession leaders and

supporters, debarred from the general amnesty, were pardoned by the President or his military governors.

Johnson was no doubt sincere in reporting to Congress, when it assembled in December, 1865, that the States which had tried to withdraw were now reconstructed so far as it lay in his power, and that every indication in the South pointed to a restored Union. It remained only for Congress to admit the Senators and Representatives elected from those States. Many of these had come to Washington with their credentials. Some of them had taken an active part in the secession movement. Numbered among them was the Vice-President of the recent Confederacy. Being approved by the President, the title of "whitewashed rebels" was immediately bestowed upon them by the radical Northern members of Congress, who would compel them to do penance for their political sins. The conflict between the legislative and executive branches of the National Government over the initiative of reconstructing the States was precipitated by these efforts of Johnson. It had threatened Lincoln, and, if he had lived, would probably have completely changed the light in which he is now regarded by partisan history. The Clerk of the House of Representatives refused to call the names of the rebellious States; and their Representatives, elected under the Johnson reconstructed governments, had no opportunity of presenting their credentials. Owing to the permanent nature of the Senate, it was able to open the work of the session without giving occasion for the admission of new members. The control held

by the Constitutionalist wing of the Republican party, which the personality of Lincoln had held together, was now transferred to the radical Republicans, or violent Unionists of the North. Speaker Colfax, of Indiana, on taking the chair, said: "The rebellion having overthrown constitutional state governments in many states, it is yours to mature and erect legislation which, with the consent of the executive, shall establish them anew." Congress was now to assume the task of reconstruction, "with the consent of the executive." Thaddeus Stevens, the leader of the Radicals in the House, denounced the "unregenerate rebels," who, without legal authority, had been allowed to organise the dead States. He declared that there were no evidences that the people of the Southern "provinces" would be prepared to participate in the constitutional government for some years. He would reduce them to the preliminary stage of Territories. "There they can learn," said he, "the principles of freedom, and eat the fruit of foul rebellion." He would not permit "these fallen rebels at their option to reenter the heaven which they have disturbed, the garden of Eden which they have deserted," until they had adopted amendments to the Constitution depriving them of their three-fifths' slave representation in Congress, allowing an export duty to be placed on cotton to help pay the addition to the national debt, and for ever prohibiting the payment of any part of the debt incurred by the States by rebellion.

Sumner, the leader of the radical element in the

Senate, would require the rebellious States to adopt these or similar amendments as a prerequisite to their readmission. The rejected members, being refused even the courtesy of the floor of the Senate, returned to their constituents. All the good influence of the pacific instructions of Grant to allow the prisoners of war to take home their horses for the spring ploughing and of the conciliatory plan of Lincoln for resumption was destroyed. The Southern people, rendered additionally sullen and defiant by their apparently perpetual debarment from participating in the National Government, were ready to support their State Legislatures in passing most unfortunate laws for the control of the freedmen.

Gradually the breach widened between the President and Congress. A healing policy at the hands of Lincoln, a Northern man, could scarcely have been supported by Congress. Much less could it be tolerated when emanating from a Southern man. Andrew Johnson, of Tennessee, life-long Democrat and Southerner until secession turned him to the Union and to the Republican party, had been placed on the Republican ticket with Lincoln in 1864 on a "Union" platform in order to attract the loyal vote of the border and reconstructed States. He had proved to be a second Tyler. Suspected of being unregenerate at heart, his mildness toward the seceders seemed to the Radicals proof of his desire to condone their offence and to shield them from de served and necessary punishment. The last vestige of rebellion against constituted authority must be purged from them. The existence of the Union

must not be put into jeopardy a second time. They must realise that they had the negro with them permanently and on an equality. The saying was current in the North, two years after the close of the war, that it might be necessary to shoulder arms again and march into the South to subdue the reconstructed rebels, rendered defiant by a Southern President, and to secure to the negro his rights.

On these grounds, popular support of the Radicals in Congress increased daily. They held a two-thirds majority in both branches of Congress by counting only twenty-five States in the Union and excluding Senators and Representatives from the remaining eleven. They were able to pass, over the veto of President Johnson, various acts in 1866 and 1867 tending to reduce the people of the seceding States to complete submission. The acts were framed to deprive Johnson of aiding and protecting his Southern brethren, as they called the late Confederates; to correct the constitutional advantages which slavery gave to the Southern States in the National Government; and to insure a fair treatment to the negroes at the hands of their former masters. One of these acts, proposed as the Fourteenth Amendment of the Constitution, extended the privileges of citizenship to the negro, deprived the South of its three-fifths slave representation, reduced proportionately the representation of any State denying suffrage to any male member of the State over twenty-one years of age, debarred from national office all who had held Federal office before engaging in rebellion, validated the United States

debt, and nullified the debt incurred by the States in rebellion.

By other reconstruction measures the rebellious States were annihilated and the territory they occupied was made into military districts under military governors, until such time as they should adopt this Fourteenth Amendment and be readmitted by Congress. The command of the army was taken away from the President by a "rider" attached to the Army Appropriation bill. This action was hastened by a rumour that he intended to use the army for a *coup d'état* and proclaim himself dictator of the United States. The Freedmen's Bureau, originally created for the philanthropic purpose of aiding the negroes to become self-supporting, but now degenerating into a political machine largely for patronage, was charged with the task of giving to the freedmen such lands as had been declared confiscated because their owners had taken part in the rebellion. Jurisdiction over the freedmen was transferred from the local to the Federal courts. Their control was taken away from the State authorities and given to the Federal military officials. In brief, these reconstruction acts, passed over presidential vetoes, took the management of the negro from the States in which they lived and made them wards of the Republic. Congress was determined to disprove the saying, heard so frequently after the Dred Scott decision, that this was "a white man's government."

Johnson was by no means a silent spectator of these proceedings. He attacked the radical members of Congress bitterly in his various speeches,

especially those he made in 1866 while "just swinging 'round the circle" of Western cities, as he expressed it. "Hang Thad Stevens!" was the reply he gave to one of his crowd of hearers in Cleveland, who called out that he ought to hang Jeff Davis if he wished to be true to his Northern professions. Not even Seward could persuade him to restrain his temper and control his speech.

Congress had its revenge in curbing still more the prerogatives of the presidential office. The control of *habeas corpus*, almost specifically conferred on the President by the Constitution, was taken from him and given to the Supreme Court. Finally, a Tenure-of-Office bill took from the President all control over the Federal officers of the United States by requiring the consent of the Senate for their removal. By short adjournments and by extra sessions, Congress attempted to keep constant watch on the Chief Executive. Eighteen different acts, bearing on the reconstruction of the rebellious States and the treatment of the negroes, were returned to Congress by the President with his objections. Nearly all were passed over his veto.

The excuse given by the former conservative members of Congress for supporting these radical measures was that such legislation was necessary in order to secure fair treatment of the negro in the South. The first effect of freedom upon these four million blacks, untrained by inheritance or environment for the duties of freemen, and much less for citizenship in a republic, was naturally unfortunate. In the soldiers' camps, where they were fed and

entertained, they tasted the unaccustomed fruits of idleness. Continued in this dependent situation by the Freedmen's Bureau, they harboured extravagant ideas of their future as wards of the Government and fostered by its paternalistic hand. The legacy of "forty acres and a mule" was soon enlarged by the negro imagination into a whole plantation, with the former master as a servant. No longer amenable to the slave code which had formerly regulated their conduct, they became a menace to the whites. For self-preservation, the reconstructed Johnson State governments, through their several Legislatures, amended the codes to make them fit the new conditions. The North had been treating the free negro on theoretical grounds; the South was facing him as a troublesome fact.

These "black laws," as they were derisively called by the Radicals, varied in different States. The object was to prevent the negroes from wandering about the country and flocking to the cities as they had been doing since the old plantation life was broken up. Generally each black was required by law to register under an employer, whom he could not leave until the expiration of his contract. If he ran away, he was captured and returned. Negroes entering a State must give bond not to become paupers. In some States the freedmen were forbidden to keep firearms or to loiter on the streets. A vagrant might be sold to a master and negro children apprenticed to whites. Whipping at the post was the penalty for many offences. The Northern people admitted the necessity for some

measures of this kind, but pointed out the danger of cruelty in their enforcement as well as in their abuse. It was chiefly to prevent the execution of these State laws that the Freedmen's Bureau was empowered to assume control of the negroes. In return for this interference, and because it tended to place the blacks more or less upon an equality with the whites, all the Johnson governments except that of Tennessee refused to ratify the Fourteenth Amendment, which was intended to overcome these black laws by guaranteeing the negro in his "civil rights." The refusal gave the Radicals a further excuse for assuming charge of reconstruction.

By the beginning of 1868 congressional reconstruction had obliterated the Johnson governments, had supplanted the Johnson officials, and had nullified the Johnson policy. The region formerly occupied by the rebellious States had been reduced to military districts and laid prostrate at the mercy of the Radicals in Congress and their supporters in the Northern States. Home rule was a thing of the past. One portion of the Republic had been reduced to primitive territory, its natural inhabitants under military law, and its administration in the hands of a horde of Northern office-holders, appointed under the military governors. These alien officials were popularly known as "carpetbaggers," because they brought all their possessions for their temporary stay in that kind of a receptacle. They were aided by the loyal Southern whites, contemptuously known among their fellows as "scalawags." Naturally the number of "loyal" men had greatly

increased since the close of the war. The State constitutions which had been adopted by the Johnson governments were gradually replaced by those formed under congressional action. Having put them through these purging fires, Congress would in due season admit the seceding States and open the doors to their Senators and Representatives.

The Democrats in Congress, hopelessly in the minority, opposed the reconstruction measures as best they could. Helpless so far as an appeal to force or to the ballot was concerned, they could only plead unconstitutionality. But the Constitution must suffer in war times. Many of the Radicals refused to listen to any pleas for the rebellious States upon constitutional grounds. Stevens quoted the Latin motto, "*Inter armes silent leges*," to prove that there were no constitutional or statutory limitations valid in time of war. Sumner found a warrant for the reconstruction measures in that clause of the Constitution which compels the United States to guarantee a republican form of government to every State in the Union. This "slumbering giant," as he called it, had been waiting all these years for such a crisis as the present. Formed originally as a precaution against a State establishing a monarchy, a kind of local Monroe doctrine, it was now used to legitimatise whatever action Congress might deem wise to take. "Talk to me about the meaning of the Constitution!" said one member in debate; "the Constitution means whatever we want to make it mean." Another said: "Do not tell me that the United States cannot do this or that with any rebel

PRESIDENT ANDREW JOHNSON SWINGING 'ROUND THE CIRCLE

Thomas Nast in *Frank Leslie's Newspaper*, 1866.

State! The United States can do whatever it wants to do and wherever it wants to do it." Thus do inclination and opportunity make cobwebs of constitutional guarantees and theories of interpretation. An adequate portion of the Federal army was still quartered in the Southern States; the party was in full control of both branches of Congress; and the heat of war animosity was still felt among Northern people. Only a Southern sympathiser, made Vice-President under the mistake of thinking that he had been converted, seemed to the Radicals to stand between them and their task of obliterating rebellion from the hearts of men after having routed it on the field of battle.

Shorn of his just authority, deprived of the power given to his office by the Constitution, and which had been enjoyed by his predecessors, the President of the United States was reduced to sore straits. "The man at the other end of the Avenue," as Stevens called him, must resign his office, cease to perform its duties, or break the cords with which the other branch of the Government had bound him. Never had the stability of the Republic, depending as it does largely upon the tripod of executive, legislative, and judicial equality, been so much in danger. The machinery devised for its protection threatened it with extinction. Usurpation had become authorised by common consent.

Of all the barriers by which the Executive was hedged, the one to be tested first would naturally be that forbidding the removal of an official without the consent of the Senate. Many of these Federal

officials were hostile to the President and inimical to his policy; yet he must not remove one of them. Chief among these was Stanton, who had retained his position as Secretary of War in order to control the army, the chief agency of congressional reconstruction. By removing this man, notoriously his enemy, Johnson gave to Congress, in February, 1868, the long-sought excuse for his impeachment.

Franklin had argued in the Constitutional Convention that the President should be made subject to impeachment, since it would remove the temptation to assassinate an incompetent or tyrannical magistrate. In the whole course of debate no suggestion appears that the grounds for an impeachment would be other than moral ones. It was not expected that the action on which the first and only impeachment of a President in America was grounded would be purely political. The eleven counts upon which Andrew Johnson was accused of "high crimes and misdemeanours" were based upon his removal of Stanton without the consent of the Senate, and upon attacks made by him upon the members of Congress in the course of his public speeches. The accusations were purely personal matters between the President and the members of Congress. No question of fidelity to country, of integrity, of morality, of capability—the true tests of a public official—could be found in the list of offences. It was most unfortunate that no sooner had the Union come into its full strength than its endurance was put to the test by one-half of the people holding the other half under military con-

trol, while two of its co-ordinate branches fought out a political and personal quarrel.

During the months of April and May, 1868, the impeachment trial of Andrew Johnson was conducted before the United States Senate, acting as a jury, with Chief Justice Chase presiding, and a committee of the House acting as prosecutors. Each day the committee, headed by the infirm and implacable Thaddeus Stevens carried in a chair, marched from the House to the Senate. Each day the galleries were crowded to see the unusual spectacle. After witnesses and arguments for both sides had been heard, the Secretary of the Senate, on May 25th, put the question "Guilty or not guilty" to each Senator. Of the fifty-four members of the Senate eight were Democrats, undoubtedly favourable to the President against the Radicals. To them might be added four Republicans known to favour Johnson. This left forty-two Republicans, or six more than the two-thirds required to pronounce him guilty. Every effort was made to keep this number in line, but seven of them voted "Not guilty," saving the President by one vote. Impeachment having failed on the eleventh article, upon which the first vote was taken, Congress soon after adjourned. The Radicals had staked everything on the impeachment of Andrew Johnson, and had lost. Reconstruction was now to be transferred from the halls of Congress to the Southern States.

If one can distinguish between the personality and the office of President Johnson, he must be

gratified by the result of the impeachment trial. Never was one branch of the Federal Government so near being made subservient to another. Conviction would have meant an impairment of the high office. Acquittal brought renewed dignity to it. Most unfortunate would it have been if political parties had once been able to make use of the dangerous weapon of impeachment, a remedy to be used only in case of a menace to the people or moral degradation of a high office. That it was purely a political test is demonstrated by the dragooning to which the seven recalcitrant and doubtful members of the party were subjected before the vote and by the treatment given to them afterward. Every one of the seven was read out of the party.

The speedy adjournment of Congress after the acquittal of Johnson was followed by the death of Thaddeus Stevens. The Tenure-of-Office bill was modified, as were the many other measures invented to hedge Johnson about. All the seceding States except Virginia, Mississippi, and Texas, having adopted the Fourteenth Amendment under the management of the congressional governments, were readmitted to full membership in the Union in July, 1868. Johnson was allowed to complete the remaining ten months of his administration in peace. He retired from office embittered with his party and demonstrating afresh the impossibility of a political change of heart after the mature years of life have been reached. Probably no President was ever so utterly bereft of party, friends, and praise.

During the long contest between President and

Congress, the Southern States had been experiencing the effects of congressional reconstruction. "Carpetbaggers," "scalawags," and negroes were making a history which years cannot efface from Southern memory. Few soldiers became "carpetbaggers": they were commonly recruited from the "stay-at-homes" of the North. As the military governments were withdrawn, these alien officials gradually assumed ascendency. Some of them were honest men, moved by a wish to help the Southern people regain their standing. But they went into the South with an attitude toward the "rebels" that annulled all prospects of success. The larger number soon saw the opportunities given to them by the control of the negro voters and plunged the States into the wildest excesses of extravagance of expenditure and the most open corruption.

South Carolina was perhaps the worst sufferer. During the period of foreign control, the value of her property decreased nearly one-third, while her taxes multiplied five times. The Legislature spent thousands of dollars in furnishing the Capitol with mirrors, chandeliers, carpets, and upholstered furniture. Six sessions in four years cost the State an average of nearly half a million each. The running expenses of the State were nearly as heavy. Six million dollars were guaranteed to a railroad on mortgages, many of the members being interested in the corporation. In Louisiana and Arkansas the plundering took the form of grants to purchase lands for railways, many of which existed only on paper. The debt of Tennessee increased sixteen

million dollars through gifts to railroads and turnpikes. In six years the State debt of Alabama was trebled. The total debt placed upon the eleven rebellious States prior to 1871 has been estimated at $291,626,015.

Mississippi did not present so promising a field for plunder as did some of her wealthier sisters; but her situation in 1874 may illustrate the general condition in the rebellious States, now reconstructed according to the congressional plan and readmitted to the Union. The governor was an ex-soldier, who had come into the State with the Federal army. The lieutenant-governor, secretary of state, and commissioner of education were negroes, the latter under an indictment for stealing. In the senate, there were nine coloured men and an equal number of carpetbaggers. The house contained fifty-five coloured men, many of them unable to read or write, together with fifteen carpetbaggers. During a temporary absence of the governor, the lieutenant-governor pardoned thirty-six friends from the penitentiaries and jails and nollied the indictments of twenty-nine others.

This condition was brought about by the attempt of certain States to secede from the Union and by the consequent disenfranchisement of their white citizens and the enfranchisement of their negroes. Citizenship and suffrage had always been separated in the history of the Republic. Each was under local control; but each was passing gradually to national supervision with many other functions of government. When the Constitution was framed,

the control of citizenship was given to the Federal Government; suffrage was left to the States. The necessity for uniformity in naturalisation was the original warrant for national control. The qualifications requisite for voters in choosing national elective officers were left to the States. Congress reserved the right of regulating only the time, place, and manner of holding elections.

The naturalisation of aliens was so essentially a national function that, barring the Virginia and Kentucky Resolutions of 1798, for which a naturalisation law was partly responsible, the States made no further protest against national regulation of this matter. The Union, in turn, made no attempt to interfere with suffrage in the States. It never ventured to give even the residents of the District of Columbia a vote. But the Fourteenth Amendment, making the negro a citizen, although adopted by the Southern States under carpetbag rule, had failed to get the negro what the Republicans considered his full rights. It declared him a citizen of both State and Union and forbade any State to abridge his "privileges or immunities." This guarantee secured for him presumably all the social privileges enjoyed by the white man, so far as the law regulated such matters. Constitutionally the negro was still a subject of the State, admitted most reluctantly to suffrage under the reconstruction acts, and saved from his white neighbours only by the protection of the Freedmen's Bureau agents. The latter would some day be withdrawn. The negro must be given power to care for himself, to

compete for his rights with the whites. A political party seemed his only salvation. He must be organised and become one with his Northern protectors. This was the argument employed by those who favoured compelling the States to give the negro a vote by adding a Fifteenth Amendment to the National Constitution. It would mean interference with one of the few paramount rights still retained by the States. It was destined to be one of the most important propositions ever presented to the American people.

It was useless to point to the notorious lack of preparation among the mass of blacks for this high privilege; to plead the law of evolution in the preparation for citizenship; to show that suffrage is the test and prerogative of self-government; that a republic is the highest form of government; and that even the white race had not been perfectly successful in conducting an experiment of representative government in America. Enthusiasm carried the day against judgment. The sentiment which for years had demanded the freedom of the slave was not satisfied until it gained the ballot for the negro, the full consummation of freedom. The Northern masses were actuated by the best motives; the Northern politicians saw the opportunity of establishing a party so firmly in all parts of the United States that enemies of the Union would be permanently held in check and the existence of the Union permanently guaranteed. For this reason the negro became an instrument for political ends, a condition from which he is slowly returning to his original

situation, an industrial agent, only after the lapse of more than a quarter of a century.

Sentiment in the Northern States showed itself far from unanimous on the proposition to arm the negro with the ballot and transfer suffrage from State to Union. California, Oregon, Maryland, New Jersey, Kentucky, and Delaware rejected it. Three of these were border States. The Southern States under the congressional governments voted affirmatively, the freedmen thus assisting in enfranchising themselves. Ohio at first voted adversely, and New York later endeavoured to recall her ratification. However, the amendment was declared in effect in February, 1870. For better or worse, the die was cast and war was responsible for it. The action would not have been taken in a century of peace. Left to the States, it would have been done gradually as preparation indicated.

A North rendered politically solid by the Republican party gave rise to a "solid South." Combination for mutual defence is as old as Revolutionary days. Military and carpet-bag rule held the Southern States with the aid of the enfranchised negroes. Grant carried five Southern States in the election of 1868, which had gone overwhelmingly Democratic in 1860. The agencies employed by the "solid South" to regain control of their State governments embraced gerrymandering, ballot-box stuffing, intimidation of negro voters, and wholesale disenfranchisement of the blacks by State constitutional barriers. It included the "Ku Klux Klan," a secret organisation formed for the purpose of

exercising a control over the blacks by fear, but which grew by abuse into tyranny and murder. Burning at the stake was introduced, being handed down by tradition from Indian days as the most horrible punishment imaginable. Supporters of the "Ku Klux Klan" defended it as a counterbalance of the "Union Leaguers," formed among the carpetbaggers and negroes for retaining control. Within ten years, by such agencies, the Southern people regained home rule. For forty years the "solid South" has remained a heritage of reconstruction days, a phalanx into which the Republican party has been able to make but slight inroads. Regarding a presidential election as a choice of the people unhampered by prejudice, one may pronounce the political "solid South" the most formidable menace to a completely united nation.

The work of congressional reconstruction was practically ended by 1876, and there was little left to show for it except a "solid South" and Southern ill-will. The Southern States were again in their full relations to the Union and under a home rule as sectional and bitter as that which existed before the war. Several decisions of the Supreme Court had been gained which established the Northern contention of an indestructible Union and validated the congressional theory and plan of reconstruction. But some of these decisions, on the contrary, tended to restrain the Union from attempting to interfere further with the functions of the States.

The decisions that military tribunals in a State not in insurrection were unconstitutional; that test oaths

A RECONSTRUCTION SITUATION

A campaign print of 1864, showing the results of placing the negro at the polls.

to punish Confederates were invalid; and that the city of New Orleans could give rights to a corporation within its own limits contributed as much toward the making of the Union as did any decisions of John Marshall. By placing barriers about the remaining rights of the States, the Court checked the encroachments of the Union, thus tending to restore the balance between the two. The Court went farther. In 1875 it declared unconstitutional the "Civil Rights" act of Congress, securing equal accommodation for blacks and whites in taverns, cars, and all public places. The ground was that Congress might correct any State law impairing the rights of the negro, but could not invade a State to interfere with its regulations for safety and good order. These and other decisions rapidly established the new relations existing between the Union and the several States, and for ever put at rest the presumption that the rights of the States had perished in the Civil War.

The politicians must not bear the entire responsibility for the enfranchisement of the negro. In the election of 1872, contested largely on this issue, the Republicans carried every Northern State. The people supported the action. That this great majority should have been so materially reduced at the succeeding presidential election was due partly to the passing of the Southern States under the "solid South" control, and partly to the fraud and corruption in national office which marked the second administration of Grant. Invariably these menaces to free government follow a sure majority and over-

confidence in a party. They may be looked upon in this light as reactionary agents. The Republicans, fearing defeat in the election of 1876, put forth every effort, even resorting to "waving the bloody shirt" in describing the Democrats as former rebels and still unconverted. The reconstructed States had "returning boards" to pass upon elections, being a part of the reconstruction machinery. These boards corrected the returns from three Southern States which had gone Democratic, and cast out the Democratic votes on the ground of fraud.

Since it was essential to the Republicans to carry each of these three States if they won the election, the action of the returning boards was suspicious. Congress is the final authority on elections. The Republicans in Congress, wishing to clear themselves of the suspicion of fraud, yielded to the clamour of the Democrats and agreed to appoint a special Electoral Commission of fifteen—five each from the Senate, the House, and the Supreme Court. The commission, so admirably constituted, soon showed, unfortunately, that it was not able to rise above party demands. On every question proposed, the eight Republican members voted as partisans and the seven Democratic members did likewise. Under these deplorable conditions, Hayes, the candidate of the Republican party, was declared elected over Tilden, the Democratic nominee. The commission had saved the Union in one of the greatest crises it had faced barring only the Civil War; but it was accomplished by such a show of

partisanship and placed the victory of the successful candidate under such a doubt that the event may be regarded as a fitting close to the sad story of reconstruction.

CHAPTER XVI

THE AFTERMATH OF WAR

THE Civil War drew a distinct line across the story of the United States. It has become a line of demarcation in popular thought. To say that an event happened "before the war" or "since the war" is to give it a distinct place. No other happening in American history has such particularity. The war is associated in popular thought with the devastated homes, separated families, and ruined fortunes which it wrought. It is connected with the emancipation of the slave and the problem of the freedman as a voter and as a resident. It is less evidenced by the enormous increase in the public debt, and still less by its settlement of many of the constitutional problems which had accumulated in the seventy years of contact between the States and the Union.

For one thing, paramount State rights had perished in the war. There is always danger of confusing the phrase "State rights" with "rights of the States." The former, so far as it was used to support the Southern theory of individualism and

the retention of the unexpressed powers by the States, was lost in the appeal to the sword. But the rights of the States did not perish. The tribunal of war set certain limitations to the rights of the States and gave the benefit of the doubt to the Union. But local government lived as it had always lived. It was not absorbed in centralisation. It continued in self-taxation, local regulation of expenditures, the management of highways and public schools, the titles to landed property, preservation of good order, the care of the public health, marriage and divorce, and countless other forms in which the citizen participates in local government. Every individual finds himself in touch with the State a score of times where he meets once the Federal Government. The custom-houses, the internal-revenue offices, the post-office, and an occasional military post cover the evidences of a National Government with which the average law-abiding citizen comes into contact.

This proportion existed before the war as well as after. The conflict made little difference in the lives of the people so far as State or Federal rights were concerned or their relations to each. It simply endorsed with approval the silent growth of a century of unionism. It made the further enlargement of national activities easy. It forbade a return to the old order of things. State allegiance was not lost, but it was confined to pride in commerce, in products, and to political activity. It was never again to be set up against national pride or allegiance. State lines were no longer barriers. National views

would attend the spread of railroads and the growth of interstate commerce. National views even more liberal than Clay's forgotten "American system" would in time produce a tariff for protection, apparently permanent, under which fortunes would accumulate and manufactures thrive in an unprecedented industrial epoch.

The quickening of nationality by the victory of the war brought a temporary revival of a vigorous foreign policy. Seward, as Secretary of State, had not abandoned his belief that hostilities might have been averted by uniting both sections against some foreign foe, if an incident warranting it had arisen or could have been forced. One situation remained in the aftermath of war which could be turned to good advantage. Popular wrath in the United States would not be appeased until Great Britain had made some reparation for allowing the Confederate cruisers to be built and fitted out in her ports to prey on Union commerce. The condition of affairs in the Far East and in the Franco-Prussian war was such that Britain had every desire to retain the good-will of the American people. A Joint-High Commission was formed in 1870 by representatives of England and the United States, which considered these claims and other matters pending between the two powers. It arranged a court of arbitration composed of representatives from five nations, which met at Geneva and eventually awarded $15,500,000 to be paid to Americans whose property had been injured by the cruisers. Because of the prominence of the *Alabama* in ravaging Union

commerce, these demands were known as the "Alabama Claims." The extravagant demand of the United States for indemnification for the cost of suppressing the cruisers was not allowed. England paid the award, although she refused to admit her responsibility, lest a precedent be set.

Seward had in the meantime taken a step toward what he conceived to be the ultimate destiny of the United States—the ownership of the North American continent. Russia, at a loss to make a proper disposition of her remote and almost defenceless province in the north-western part of the continent, approached Seward with a proposition to sell it to the United States. Seward pronounced the sum of $7,200,000, finally agreed upon, a good investment considering the resources of Alaska, as it was renamed, and because the annexation might serve to distract attention from the reconstruction problem and reflect credit on the administration of Andrew Johnson. Although the latter objects were not accomplished, Alaska proved valuable for her seal fisheries and gold deposits. The fisheries alone have realised nearly double the sum given for the province. Seward also wished to purchase the Danish West India Islands, but the hostility of Congress toward Johnson prevented. The people showed small interest in any expansion policy. Seward retired when Grant became President, moderately satisfied with the addition of Alaska only.

The war had made Grant an ardent nationalist. The renewed project of an Isthmian Canal demanded as a precautionary measure an American control of

the Gulf of Mexico. To this end Grant was eager to annex the black republic of San Domingo. Undoubtedly a sentiment for the free negro actuated those favouring this step. Grant went so far as to establish a protectorate over the island; but the Senate refused to entertain the idea. A series of exasperating events occurred about the same time in connection with a Cuban insurrection, culminating in the seizure by the Spanish authorities of an alleged American filibuster, the *Virginius*, and the execution of her crew and passengers, including many Americans. Grant proposed to Britain the establishment of a protectorate over the troublesome island, a proposition which fortunately was not accepted. It was the last suggestion ever made of an alliance with Europe. The people were satisfied with a money indemnification. The prevailing feeling was in marked contrast with that of thirty years later. Nationality had not yet become aggressive.

The chief evidence of the war left to the conquered States was a debt made irredeemable by an amendment to the Constitution. The one foreign loan, the numerous domestic loans, the bonds, the value of emancipated slaves, the paper money—all were repudiated by the Fourteenth Amendment. These obligations had been incurred in honourable warfare. But the State debts, created under the carpetbag rule, as heretofore described, must be paid. The rapidity with which the South recovered was little short of marvellous. Her reliance on cotton had proved unfortunate in the war; it became

her salvation afterward. Cotton tided her over the first dark days until Northern capital began to come in and develop her industries. The high price of cotton which the war produced continued for several years. The exports reached an annual value of $200,000,000, although the crop did not recover its former size until 1871. The assessed valuation of property in the Southern States in 1860 was, in round numbers, five billion dollars. In 1870 and 1880 it was three billion; but in 1890 it had risen to six billion dollars.

The same provision which cancelled the Confederate war debt placed a share of the Federal debt on Southern shoulders by forbidding any part of it incurred in putting down the rebellion to be "questioned." Whatever proportions the public debt had assumed prior to the war were insignificant compared with its size at the close. In 1866, it had reached the enormous figure of $2,773,236,173.69. The debt had amounted, in 1860, to about two dollars for each inhabitant of the United States. In 1870, it was six and a half dollars per capita. Unfortunately this aspect of war is rarely taught in the schools.

The Fourteenth Amendment further forbade any questioning of the payment of bounties and pensions to those engaged in suppressing the "rebellion." Pension laws had been passed so frequently for the relief of survivors of the various wars in the prior history of the Union, that their constitutionality under the expressed power of making war had ceased to be questioned even before the Civil War.

Yet they had never involved the expenditure of a large sum of money. In 1862, the total disbursements of the pension office were only three-fourths of a million dollars. The following year they passed the million mark; by 1866, they rose above ten million; and in 1890 they exceeded one hundred million dollars annually. A proportionate share of this burden fell upon the Southern people, in addition to pensions for the ex-Confederate soldiers, which certain Southern States took upon themselves.

North and South alike were affected by certain other misfortunes of the war. Some of these are indicated in a comparison of the decade preceding with the decade following the war. The increase in population, which had been almost thirty-six per cent. in the decade between 1850 and 1860, fell to twenty-two per cent. in the ten years following. The centre of population, which had been moving westward at the rate of eighty-one miles in every ten years, fell to little more than half that distance. The number of patents issued for inventions conducive to human happiness and the peaceful arts was greatly decreased. Newspapers increased in number and their facilities for getting news were vastly improved; but the growth was ephemeral and probably tended to produce the sensationalism so characteristic of the modern press. War songs were written which stirred men's blood; but literature received no impulse because of the war which might not readily have come without it.

Aside from the constitutional fruits of the conflict, as described in the preceding chapter, many

minor but more material victories had been won by the Union. The legislative function was greatly increased by the measures necessary for the conduct of hostilities. The number of bills passed by Congress before 1860 averaged about fifty-eight to the session. For the next decade the average was increased to about one hundred and fifty. Among these were many measures induced by the war, but tending to interfere with the former prerogatives of the States or granting to them certain benefits. They form a sharp contrast with the restricted national legislation in the days of State supremacy. Duties on arms imported by the States were revoked, and expenses incurred by them for the defence of the Union were indemnified. Arms and ammunition were offered free to all loyal citizens regardless of State residence. The city of Baltimore was policed by the national authorities, under the direction and at the expense of the Federal Government, without regard to the city officials. All restrictions placed upon the control of the State militia by laws made at the time of the "Whiskey Insurrection" during Washington's administration were cancelled and the President's power made supreme over the citizen soldiery regardless of the States. Two or more persons "conspiring" against the United States were liable to punishment in the Federal courts. The local judiciary was thus made subservient to the national authorities—a contrast with the personal-liberty laws of a few years before, which forbade the use of a State jail for Federal prisoners. The property of persons in rebellion

was made liable to confiscation by the national authorities. The President was authorised to take possession of railways and telegraph lines regardless of State charters or State boundaries. High tariffs and direct taxes were imposed and were collected by means of the great military resources at the command of the Federal authorities without fear of encountering a Fries insurrection or danger of reviving South Carolina nullification.

Secession and the resulting war furnished the opportunity for establishing by statutory enactment the supremacy which had been steadily accruing to the Union. The Southern States, long the protestants against national encroachments, had withdrawn their Representatives from Congress. The Northern States, the supporters of this presumption, were left in full sway. Unhampered by conscientious scruples or constitutional objection, the Unionists atoned for all past failures. The session of 1863–64 enacted 213 laws. Among these was a homestead law and another donating public lands for agricultural and mechanical colleges, both similar to bills vetoed by President Buchanan a few years previously. By the first of these measures, the people came directly into possession of their share of the public domain, making possible the colonisation of the North-west and the further increase of Northern supremacy in national power. Any person over twenty-one years of age who had not borne arms against the United States was permitted to select public land to the aggregate amount of 160 acres, at a maximum price of $2.50 an acre. Manifestly the

condition shut out for the nonce the Southern people from the remaining part of the public domain. In order further to encourage agriculture, a department of the National Government was organised to care for the interests of that important art. The peopling of the public lands was further aided by the erection of territorial governments over Colorado, Nevada, and Dakota. No sectional disputes were aroused in organising these Territories, such as had marked the creation of nearly every Territory in preceding years. The slavery ghost no longer walked through the halls of Congress. Kansas was admitted with a free State constitution soon after the Southern Representatives withdrew from the national capital.

State after State accepted the proposition of the National Government to give them a share of the public lands for the purpose of founding institutions of higher education along practical lines. The provisions of this "Morrill Act," so-called from its author, Justin H. Morrill, of New Hampshire, formed a partnership between State and Union characteristic of the new relation existing between the two. The interest of the fund produced by the sale of the land was to be applied exclusively to the endowment, support, and maintenance of a college in each State, but not for the erection or repair of buildings under any pretence whatever. The housing must be furnished by the State taking advantage of the gift. Every State and Territory in the Union in time accepted the offer. The various "State universities," or "agricultural colleges," where

State universities had previously been founded, have formed an unappreciated bond between the two sovereign powers and illustrate the added functions of the Federal Government. Scattered through the various States, they form strong contrasts with the suggestions of early Presidents for a national institution to be located within the District of Columbia on national soil. The education which was fostered originally by grants of public land made to the States was understood to be elementary or that which would reach the greatest number. Higher education was left to denominational support. These "land-grant" colleges have extended the aid of the Federal Government to higher education as well as the elementary grades. Later acts of Congress made direct appropriations of money to the aggregate sum of $25,000 annually to each of these institutions. The extent to which the benefits of the confederated republic have been enlarged is appreciated by contrasting the three agencies for higher education which have been evolved in America. There was the early college founded by a denomination for the purpose of educating young men for the ministry or missionary work. Then came the State university or State college supported by the several States for furnishing a general training, and especially for law and medicine. Last of all, the "land-grant" college or university was brought into existence by the Morrill Act. It is supported jointly by State and nation for training both young men and young women in "agriculture and the mechanic arts, without excluding other scientific and classical studies,

in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life."

That clause in the first "Morrill Act" which added military tactics to the required course of study was due to the sad experience of the Northern States in securing drill-masters when the war was precipitated. The seceding States supplied this deficiency by using graduates from their numerous private military schools. In accord with this requirement, thousands of young men have been taught the rudiments of the art of war, contributing to the national strength, as was demonstrated in the war of 1898.

Buchanan was the last of many Presidents to place the veto of unconstitutionality upon measures calculated for the public welfare to be carried out by the Federal Government in the various States. A wider view of the powers of the Union had come in with the Republican party and reconstruction. Appropriations were made for the protection of emigrants crossing the Plains, for purchasing cotton and tobacco seed in attempting to rejuvenate the Southern States, for illuminating the city of Washington on the twenty-second of February, and for establishing schools for coloured children in the District of Columbia. Right of way was granted freely through the public lands for various railways and plank roads. It would have been impossible to pass many of these acts in the early days of constitutional quibbling, and very difficult even in later times before the Civil War. No expressed

power can be found in the Constitution to justify them.

No direct appropriations were made during the war for clearing the Western rivers; but the appropriation of a million dollars for a gunboat fleet led to the opening of waterways for the vessels. Public improvements were set forward so far in this manner that appropriations for continuing the improvements thus begun have since been made without question. A novel method of conferring State benefits was instituted when the portions of the Cumberland National Road lying within the several States were given to those States without cost. Ohio afterward presented a claim against the Federal Government for a refund of the five-per-cent. donation of her land sales on the ground that the road had never been completed to the capital of Missouri in accord with the original agreement. The claim was not allowed by the Federal courts.

Railway construction was aided rather than hindered by the necessities of the war. The most important paternalistic measure in the history of the Federal Government was taken in the midst of the struggle. In 1862 grants of public lands were made for the long-proposed railroad from the Missouri River to the Pacific coast. The necessity of connecting the isolated portions with the remainder of the Union in war time was the spur for the action, and the withdrawal of the Southern obstructionists furnished the opportunity. The incorporators of the roads represented nearly every non-seceding State. Not only were they given large tracts of

land, but proceeds of United States bonds were loaned them, which were to constitute a mortgage on the property. As part compensation, the roads were required to be post-routes and military roads subject to the use of the United States for postal, military, naval, and all other Government service. This did not mean free transportation, but simply that the roads could not refuse to serve the Federal authorities upon request.

The aid given to the Pacific railways was a culmination of the policy inaugurated by Douglas in 1850 in the case of the Illinois Central Railroad. Between that date and 1870 the United States aided in the construction of ninety-three railways by donations of land. To the various Pacific companies alone over three hundred million acres of land were given, although the full amount was never located and claimed. Persons who see a menace to the life of the republic in the growth of corporations and their influence in national administration must look for the inception of the system to the slow growth of paternalism arising from the demands of the people and to the stimulus given to these demands in the exigencies of the war.

The telegraph kept pace with the railway across the continent. Special inducements were offered by Congress for the speedy completion of the enterprises. Begun in 1865, the three thousand miles of railway and telegraph were completed four years later. It is within the bounds of reason to pronounce this enterprise the final step in the geographic unification of the States. All topographical obstacles

were now overcome. Neither Allegheny nor Rocky Mountains longer separated one portion of the people from the rest. In the middle of the century the tedious journey of two months about Cape Horn had been reduced to thirty days by the building of a railway across the Isthmus of Panama. That time was cut to a week by the opening of the trans-continental railway. Before the end of the century improvement in locomotives and a better road-bed had reduced the time of the journey to four days. Not one-half the time was required to cross the continent in 1900 that was necessary to cross the Allegheny Mountains in 1800.

That the coming age was to be industrial in its character was indicated by the method adopted for celebrating the centennial anniversary of American Independence in 1876. By common consent an exhibition of American progress was made at Philadelphia, the first capital. Here were brought together for the first time the achievements of the people in the various lines of productiveness. The feature which attracted most attention was the Corliss engine, a triumph of mechanical skill for that day and prophetic of the coming industrial age. Many foresaw the stimulus to national pride and the incentive to American invention likely to result. Few realised the new aspirations and higher ideals which were created in the American mind by the European exhibits of handicraft, art, and architecture.

In connection with the exhibition, the Federal Government established a new precedent. It

THE COAL FLEET LEAVING PITTSBURG

This modern photograph shows the benefit of the Ohio River as a highway under the care of the Federal Government.

fathered the enterprise in the eyes of nations by making it a national exhibition; it appropriated money; and it made a loan to the managers. No constitutional warrant was demanded for this innovation in ways of promoting the progress of science and the useful arts by issuing copyrights and patents. No constitutional quibbling attended the many later appropriations for similar exhibitions. Strict construction was in its grave. Of the nine million visitors to Philadelphia, no small proportion came from the Southern States. They formed the most numerous pilgrimage that had ever crossed the Mason and Dixon line. The process of social reunion was inaugurated after ten years of political reunion. If one takes into consideration the attitude of the people beneath political manifestations he will admit that the patriotic influence of the Centennial Exhibition contributed toward allaying the discord aroused by the contested presidential election of that year.

The withdrawal and conquest of the Southern particularists had left the Unionists free to engage in national public works without fear of constitutional objection or presidential veto for the sake of party principles. When the close of the war lightened the demands upon the national treasury, the appropriation bills for rivers and harbours began to increase in amount. In 1867, appropriations were made to the amount of more than a million dollars for the purpose of clearing rivers and constructing harbours at various places throughout the States. In 1875, these gifts passed the five-million-dollar

mark, and in 1881 they exceeded nine million dollars. The following year the expenditures grew to the extravagant figure of eighteen million dollars, and President Arthur felt compelled by public opinion to veto the bill. It was little less than a raid on the treasury. Many of the streams which were to be improved were little more than creeks. It was an abuse of national charity, but a natural result of nearly a century of paternalism urged on by cupidity. Yet the grounds for the veto were not those of constitutional objections such as had been advanced in many preceding presidential vetoes of internal improvement bills. Reckless expenditures should not be permitted, it was asserted by the veto message, especially where there were doubts whether the objects would be of any benefit to the general public.

The war had strengthened many civil functions of the Federal Government, notably the financial system. The independent treasury, since its adoption, had prevented the renewal of a United States bank. But some of its benefits could be secured by a national supervision of banks privately organised. From being a partner, the United States would rise by such action to the position of overseer. In 1863, the loose construction Republican party passed an act permitting any banking association to issue paper notes to the amount of ninety per cent. of the value of any sum it might invest in national securities. This would insure the people from loss by depreciated money and would also furnish a market for Government bonds. No constitutional

warrant was asked or given by this time. Necessity and expediency were the sole criterions.

Three years later Congress went further. Paper money had been issued freely during the war by both State and national banks. At its close each had about the same amount in circulation. The Federal Government decided to bring the entire banking system, so far as issuing money was concerned, under its control. A uniform and permanent system of currency would result. To this end it drove out the State circulation by placing upon it a tax of ten per cent. This compelled the State banks to change to a national charter if they wished to continue issuing money. A Supreme Court decision in 1869 sustained this assumption by the Union. The number of banks increased from 508 in 1864 to 2048 in 1879. By 1900 the total number of banks chartered by the United States reached 5612. Of these 393 had failed; but so well were they supervised that the creditors received, on the average, three-fourths of their claims. The national banks pay a tax on their circulation, but have the benefit of being made depositories of the public money, as were Jackson's "pet banks" many years before. Notwithstanding many attacks made upon the system, the national banks seem likely to be continued, demonstrating the blessings of a strong supervision and a uniformity which could never be attained under individualism and paramount State rights.

The increase in the activities of the National Government produced a large augmentation in the num-

ber of its officials. The Civil War created thousands of additional clerkships, enormously increasing public patronage. After the close of hostilities, the assumption of the Southern State governments by the Union under the reconstruction acts made berths for many of these placemen. Every artifice was resorted to in order to continue their employment. Never was a nation blessed with so many "patriots for revenue only" as in the years following the war. The Treasury Department at one time contained three thousand four hundred employees, over one-half of whom had no recognition by law and whose salaries were paid out of funds appropriated for other purposes.

The Bureau of Printing and Engraving, according to an official investigation, employed three times the number of men required to do the work. Frequently a clerkship would be divided among two or more employees in order to provide additional places. Clerks were "discharged" by rotation and then re-employed to reduce the size of the list. At one port, 1678 collectors were removed within 1565 days, being re-engaged as soon as the salaries had sufficiently accumulated. Campaign funds were secured openly by levying on the Government employees. The "whiskey ring," which defrauded the internal revenue of over a million dollars in the city of St. Louis alone, was organised originally to raise a campaign fund for Grant's second election.

Each official in this vast system could control his subordinates, retaining his power through their dependence, and rendering the permanence of an offi-

cial coextensive with the permanence of the party. Corruption could easily be hidden by connivance. Opportunity was offered corporations to influence both State and national legislation. Aside from the moral considerations, the expense to the Government of these fruits of the war was no small item. The civil-list appropriation in 1848 was $5,650,000. In 1854 it had increased to $26,672,000; in 1865 to $42,989,000; and in 1874 to $85,141,800. Spasmodic attempts had been made to cure this evil. A clause had been incorporated in the Civil Appropriation bill of 1853, requiring an examination as a test of fitness for office, but it was never enforced. So disgusted had the people become with the politicians of Grant's administration that every party platform in 1872 contained a plank favouring a reform in public patronage. The following year Congress passed a merit law authorising a civil-service commission. George William Curtis was made the first chairman. Many reasons could be found for the failure of the reform. Grant was never at heart a supporter of it; office-holders sneered at the pedantic idea of examinations for proficiency; and politicians were hostile to the system as an infringement upon their prerogatives. For the most part the entire matter was a pretence in order to quiet the clamour of the people. In 1875 no appropriation was made by Congress for the commission and the entire plan was abandoned. Ten years had elapsed since the close of the war; but Federal patronage and corruption remained as evils which it brought in its train.

President Hayes, a civilian, was more kindly disposed to a merit system than Grant, an army man. But Hayes could accomplish little without the support of Congress. Fresh exposures of venality among Government officials were made. Official levies for campaign purposes openly continued. Few public men were free from records of this kind, so general was the practice. At one time the prosecution of an Assistant Postmaster-General was dropped after he had made public a letter written by the successful candidate for the Presidency suggesting that campaign contributions be made by officials.

The death of President Garfield accomplished for civil-service reform that which his life might never have secured. It has been a difficult matter to ascertain the exact cause for the assassination of three Presidents of the United States, a record unparalleled in any modern civilised nation. In the case of Lincoln, sympathy for the defeated South was advanced as the most plausible theory. Garfield's death was attributed to the clamour for public office. However slight the evidence that this was the case, public feeling would not rest until atonement had been made by some corrective measure. In 1883 the Pendleton Civil-Service bill became a law. It provided three commissioners to hold examinations and to recommend for promotion. It divided clerks into graded classes and placed new appointees on a three-months' probation. Best of all, it prescribed fine and imprisonment for soliciting or receiving political assessments and prohibited an

official from using his authority to influence electors. Despite the hostility of the members of Congress, many newspapers, and the spoils partisans, the intentions of the bill have been carried out to a creditable degree. The need of competent, honest, and permanent officials was greatly increased near the close of the century by the responsibilities cast upon the Government through the adoption of a colonial system.

CHAPTER XVII

NATIONAL INDUSTRIAL DEVELOPMENT

ALMOST midway between the Civil War and the close of the century, which brought another war, lies the year 1884. It was an eventful year in national politics. It marked the end of the Civil War control. Thaddeus Stevens, Charles Sumner, Wade, Stanton, and the other Radicals had planned a permanent political possession of the Federal Government lest disunion arise again. To effect this they had jeopardised the very existence of the Republic. Had they succeeded they would have placed it in equal peril. Permanent party control is a great misfortune in any free government. One of their last acts was to pass the law of 1884 which debarred any one who had held a commission in the Confederate army or navy from being appointed to any position in the army or navy of the United States. This act was passed almost twenty years after the close of hostilities.

In the presidential election of the same year, the law of reaction, so salutary in a republic, terminated the tenure which the Radicals had hoped

to make permanent. The old leaders were dead and their younger followers were now to be retired from the National Administration. The supremacy enjoyed hitherto by the veterans of the war was passing. They were out-numbered by voters who had attained their majority since the war and by naturalised immigrants. The people had grown weary of the continued agitation of the war issues. The abuses in national administration brought a cry for reform similar to that which had been heard in 1800 and in 1828. A comparatively unknown man, Grover Cleveland, succeeded on a reform ticket in defeating James G. Blaine, a participant in the work of reconstruction under the leadership of the Radicals. The "solid South," aided by two or three large Northern States, wrought the havoc. It was the first change in party control since the beginning of the war. Yet the change caused no such convulsion as had been predicted by the opposite party. It was a marked improvement over party transfers before the conflict. There was no general conscription of Federal office-holders, and no disturbing revolution of national policy. The devotion of President Cleveland to civil-service reform prevented the one and the slight difference between the two parties on any question obviated the other. Party animosity seemed to have perished with sectional malice. The Democratic party was again in power, but it was a new Democracy, free from the former dominance of the slave oligarchy. It was now a national instead of a sectional party. Cleveland chose as

two members of his Cabinet Lamar and Garland, former commanders in the Confederate army; but the predicted reappearance of disunionism and secession failed to materialise. The new order of things had been accepted in the South as a finality. With ex-Confederates in the President's Cabinet the political reconstruction of the Southern States seemed almost accomplished.

The change in national party administration had no permanent effect upon the industrial development which made the end of the century remarkable. This industrial expansion was part of a world movement. In England it had begun before the American war. In Germany it awaited the Franco-Prussian war and the unification of the empire. It would have come in America if there had been no war. Yet its coming was delayed by the sectional animosity. European capital was withdrawn in the fifties owing to the uncertainty of the future of the United States. National bonds went begging. The mineral resources of nearly one-half the national domain were unknown and undeveloped. One product was the sole dependence of nearly one-half the people. The war changed all this. The new lease of life for the Union invited foreign capital. Manufacturing plants sprang up in the Southern States established with European and Northern capital and under a system of free labour. There were more than three times the number of miles of railways in the United States in 1890 that there were in 1870. The exchange of Western raw material for Eastern manufactures was fully established.

This well-balanced home trade made the existence of a foreign market less a necessity. Yet after 1874 the export trade of the United States always exceeded the import in value, with the exception of four years. In 1770, North America was politically dependent upon Europe. A century later, Europe was rapidly becoming dependent upon North America for food.

If the nation sold more than it bought, a surplus of money would be found eventually in its treasury to be sent abroad for investment. This was realised in the sale of European bonds in America before the close of the century. Agricultural products constituted about four-fifths of this export trade and manufactures the remainder. The latter showed a constant tendency to increase as time passed and American resources were fully developed. In 1900, manufactures comprised nearly one-third the exports. Between 1860 and 1890, the capital invested in American manufactures increased more than six-fold, although the population scarcely doubled.

The railroad was the fourth agency in the history of internal transportation, and it enjoyed certain advantages over waterways, turnpikes, and canals. Its construction did not depend upon topography; it was peculiarly adapted to an extensive domain and it opened new markets and tapped new storehouses instead of meeting the demands of those already created. Yet the modern railway system, brought into full life by the immense possibilities opened in national grants of land, did not prove to

be an unmitigated blessing. It produced an artificial expansion of railroad construction, extended roads into regions unwarranted by any demand of business, and placed capital in a position where it must combine or be lost. Although the railroad made the desert blossom like the rose with civilisation and brought opportunity of gaining riches to thousands by transporting the supply to the demand, yet it held out temptation to corruption and lowered the rank of honest promoters by introducing a host of unprincipled men. These frequently obtained control of a railroad and wrecked it for their own advantage, instead of fostering and developing it for the benefit of the stockholders and the public. They created a suspicion and a prejudice in the public mind toward railway corporations, which caused the "Granger" movement among the Western farmers in the seventies and which have never been set at rest. National aid so freely given greatly increased the number of lobbyists at the national capital. Using every method for accomplishing their ends, they besmirched many public men beyond the whitewash of investigation or defence. The Crédit Mobilier was the most prominent of these companies put to corrupt use.

The railroad served another unfortunate end in making possible the centring of the wealth of the Republic in the hands of a few men. Fortunes had been made in a few instances before the advent of the railroad; but combinations of wealthy men or corporations to further their own aims were rare.

They appeared soon after the close of the war, having the army contracts as foster parents, and grew silently until the public began to feel and appreciate their effect. The chief object of these combinations was to destroy competition by absorbing rival companies and by establishing uniform rates of service. An attendant form of monopoly sought to obtain control of the entire output of some commodity and advance the price upon it. The only attempt of this kind in previous history to attract general attention was that of the salt manufacturers of the Kanawha district in the early thirties. Benton had thundered against the monopoly and had demanded the repeal of the tariff in order to remove what he considered to be the chief support of the combination. But the National Government made no attempt to check it in any way. It was considered a matter for State regulation.

These monopolising corporations could be chartered by any one of the States, but their business extended through many other States. State cooperation might have regulated them, but that was almost impossible to obtain. Nothing short of uniformity of action would be effective. The influence of these corporations was sufficiently great in most of the States to defeat salutary legislation. Relief through some agency was demanded by the Western farmers, the victims of railroad "pools" formed to maintain prices, and by small producers and manufacturers, who were being ruined by the special rates made by the railroads to the large shippers. The Federal Government extended over all the

States. Manifestly it was the proper agent to assume uniform and effective control of these State corporations. There were certain precedents to be found. A growing tendency to regulate common carriers by national legislation could be traced in past history. In 1842, the importation of obscene literature had been forbidden. The regulation of passenger service on navigable waterways followed. In 1860, a law had been passed for the protection of female passengers.

To meet the demands of the public and against the protests of corporate interests, Congress in 1887 passed an Interstate Commerce law forbidding common carriers to discriminate in their rates or to establish uniform rates in a pool and then divide the receipts. The enforcement of the law was entrusted to a commission. The difficulties the law would encounter are obvious to the reader. Although sustained by the Supreme Court in most instances, the act encountered the odium of attempting to pry into private business. It was obliged to deal with elusive corporations instead of individuals. In principle, it was the most advanced legislation in the presumptions of the central power. Its constitutionality rested upon the power given to Congress to regulate commerce "among the several States." This provision was placed in the Constitution to avoid the many disputes which arose in the Confederation days when each State controlled its own commerce. It is doubtful whether its framers would have endorsed its extension to the control of individuals and companies within the several States.

The extent to which a national control of commerce between the States could be stretched was soon demonstrated. The occasion arose from still another evil of the industrial age. The installation of the factory system had created a labouring class dependent upon piece work and deprived of the freedom of movement which had characterised the agriculturists and handicraftsmen of former days. Thrown into contact with each other in large numbers, and fully appreciating the value of their services to their employers in the fierce industrial competition of the times, workingmen began to organise themselves into trade-unions for material benefits. In form they were somewhat like the old trade guilds; but they did not embrace the basic idea of improvement in their respective crafts in order to turn out better work. This object was replaced in the modern system of piece work and restricted labour by a desire to obtain shorter hours of toil, increased wages, and better conditions for all kinds of workmen.

For a century there had been more or less permanent organisations in America of craftsmen of various sorts. Shipwrights, tailors, printers, hatters, and the like had associated themselves. Robert Owen, George Henry Evans, and others had headed movements for bettering the condition of workmen. Disputes had occurred in New York and Boston as early as 1830 between employees and employers. But no combination of labour on a menacing scale could be effected while slave labour dominated the South and the abundance of free land in the North

created a constant demand for labourers. The importation of foreign labourers on a large scale after the war wrought a transformation by which labour sought employment instead of *vice versa*. One object of the new labour unions was to limit competition of workmen in seeking situations and to shield them from being deprived of work without cause. In order to create more employment they also proposed to limit the number of apprentices and the number of hours a man was allowed to work. In 1840, President Van Buren restricted a day's labour in the navy-yard at Washington to ten hours. This limit gradually prevailed over the country when the modern industrial era set in. The labour unions inaugurated a crusade for a further reduction to eight hours a day, and were successful in securing legislation to this effect in many States. Similar rulings were obtained in many departments of the National Government. Through the exertions of the unions, the age limit of child labour in factories was raised in nearly all the States, and factory inspectors were appointed to secure better sanitary conditions in workshops.

The agencies employed by the unions in securing their ends unfortunately could not be confined to agitation and peaceful persuasion. The strike had been known to America since colonial days. The "boycott" was used by the Revolutionary fathers against East India tea, although that word was not yet in vogue. Intimidation was the most effective agency which the patriots could find against the importers and Tories. The boycott was employed by

the Abolitionists against the slaveholders, and by the latter against the Northern Abolition newspapers in retaliation. Strikes grew in number and violence with the increase of the number of workmen and industries. In 1877, a strike among employees on the Baltimore & Ohio Railroad spread in a disorganised manner to the employees of other roads and gave opportunity to the mob spirit, always unfortunately near the surface in America, to gratify its penchant for fire and pillage. State troops proved inadequate in Maryland, Pennsylvania, and West Virginia, and Federal troops were employed in restoring order upon call of the State executives and in strict accord with the Constitution. Various strikes among the coal miners in different States followed, but order was maintained by State troops.

In the same ratio that capital learned to combine for self-advantage labour learned to unite for self-betterment and, as it claimed, for self-defence. Co-operation was essential to each. The one brought recalcitrants to terms by cutting prices or buying in stock, and the other by a cry of "scab" and promises of improved conditions. The new nationalisation, the bringing of all parts of the country under one control, affected labour as it did other features of American life. It presented opportunities of combination to labourers as well as to capitalists. Among these national labour organisations was the American Railway Union, composed of the mass of railway employees not members of existing orders. In May, 1894, the union endorsed a

strike in the Pullman works near Chicago and declared a boycott against handling Pullman sleeping cars. Since three-fourths of the railways used this kind of car, the effect was widespread and serious. These roads had contracts for transporting the United States mails under heavy penalties for failure or delay. Because sleeping cars and mail cars were hauled in the same trains, the obstruction of the one would be interference with the other.

The Attorney-General of the United States commanded the district attorneys to see that the passage of trains carrying United States mails was not interfered with. The Federal court granted an injunction forbidding any person or persons to obstruct the mails and deputy marshals were appointed to enforce the mandate. Chicago was the centre of the railway system, the centre from which wages were determined for the entire West, and the city containing the largest number of industries and workingmen at the time. The Governor of Illinois used State troops to quell the disturbances caused by the strike, but with little effect. He took the attitude that the delay in transporting the mails was due to a lack of employees to operate the trains rather than to acts of the strikers. He insinuated that the railroad authorities wished to employ the troops to run their trains as well as to guard their property. The sympathy of the labouring class was with the governor and they agreed with him that the railways were simply attempting to make a new use of the National Government. For this feeling, the cor-

porations had only themselves to blame. The influence they exercised in the Government was too evident to avoid the suspicion that it was occasionally put to some bad purpose.

In this condition of affairs, had the United States authorities a right to interfere in the State of Illinois? According to the Constitution, the National Government is bound to protect the individual States against domestic violence "on application of the legislature or of the executive when the legislature cannot be convened." The Illinois legislature was not in session, the governor refused to call it, or to make application for Federal assistance. In 1881, Congress by statute had authorised national interference whenever ordinary judicial proceedings failed to suppress insurrection in a State. It was done to strengthen the coercive power of the Federal courts. As the strike progressed, the United States marshal at Chicago, supported by the judge and attorneys of the Federal court, reported the situation beyond judicial control and requested the presence of Federal troops. These were promptly ordered into Chicago from the reservation at Fort Sheridan by President Cleveland "in strict accordance with the Constitution and the laws of the United States," as he said in reply to the protest of Governor Altgeld, of Illinois. The action was necessary, according to Cleveland, because the mails had been obstructed and because conspiracies existed against commerce between the States.

The second protest of Altgeld was an old-time exposition of the State-rights theory, but in the

modern dress of recognition of the supremacy of the Union.

"The question of Federal supremacy," said he, "is in no way involved. No one disputes it for a moment, but, under our Constitution, Federal supremacy and local self-government must go hand in hand, and to ignore the latter is to do violence to the Constitution. The principle of local self-government is just as fundamental in our institutions as is that of Federal supremacy."

He declared the assumption of Cleveland that the Executive must decide when it was necessary to send troops into a State would make him a greater autocrat than the Czar of Russia. It was sound Jeffersonian doctrine, emanating from a Jeffersonian governor, and lacked only a suggestion of intervention or nullification to equal the Jeffersonian protest of Alien and Sedition times. But in studying the compulsory shiftings, which have held the Union to a medial line, the interesting facts are that it emanated from the governor of a Northern State, that it was directed against a Jeffersonian president who had risen above party tradition to preserve the peace, and that it had absolutely no deterrent effect upon this new assumption of the central power. Common sense seemed to have risen permanently above constitutional quibbling and specious argument. The Supreme Court supported the action of the Chief Executive and ordered the imprisonment of the Railway Union officials for disobeying the Federal injunction. All the coercive functions for the preservation of life and property were to be

FEDERAL TROOPS PROTECTING INTER-STATE COMMERCE
From a photograph taken in the suburbs of Chicago during the strike of 1894.

shared hereafter by State and Union. The President henceforth was not only to answer calls to suppress domestic violence, but to judge of a condition of insurrection in case the laws of the United States were obstructed. Means to this end are to be found in the United States military reservations with troops near every city of any magnitude. It was a long stride from the hesitation of strict construction whether the power to carry the mails authorised the making of roads upon which to carry them to the action of coercing thousands of men, imprisoning their leaders, disregarding State protests, and virtually declaring military law in order to transport the mails. But the step had been taken in less than a century in making a nation of people out of a confederation of States.

How much of this continued prosperity of the country was due to a protective-tariff system will probably always remain a matter of dispute. The high tariff rates imposed during the war to satisfy the demands upon the national treasury were borne patiently long after the close of the war and until the settlement of the Western States brought a demand for a reduction. The inhabitants of these States were generally agriculturists and owned few manufactories. They complained, as South Carolina had complained decades before, that one section was being taxed for the benefit of another section. The high rates were no longer necessary, they claimed. The national treasury was full. In some years a surplus of $100,000,000 was left after all claims were paid. In order to prevent this surplus

and forestall a demand for a reduction of the high tariff, extravagant appropriations were made. The Fifty-first Congress earned the title of "the billion dollar Congress" by making appropriations in the two sessions aggregating that amount.

A partial reduction of the tariff rates was secured in 1870 and in 1872. Then came the panic of 1873 most opportunely for the protectionists. The customs receipts fell from $216,000,000 to $163,000,000. The duties lost by making coffee and tea free amounted to nearly $2,000,000. A restoration of the tariff was necessary for revenue regardless of protection, and it was accordingly made in 1875. There the rates remained for fifteen years, being "modified" once upon the suggestion of a tariff investigating committee; but the change left the schedule more protective in its nature than it was before. In vain the Democratic party during its administration from 1885 to 1889 endeavoured to agree upon a reform in the high tariff, although urged by President Cleveland's famous dictum that a condition and not a theory confronted party and people. Invested interests, although identified in the main with the Republican party, had sufficient strength in the Democratic party to protect themselves from changing a condition which was bringing them unprecedented prosperity. In truth, the old antipathy to any kind of a protective tariff had been forgotten by the party. That a policy should have once been advocated by Hamilton no longer made it intolerable. In all its suggestions for a tariff reform, the Democratic party turned away from the great prin-

ciples of free trade or protection to a consideration of various schedules for low protection, but which still involved the idea of protection.

Before the campaign of 1888, the Republican party was again united on a policy for even higher duties on certain articles, although reducing those on steel and iron. Their proposed schedule embraced many kinds of goods heretofore considered too insignificant to put on the list or too much of a necessity to bear a duty. In the campaign, much stress was laid on the desirability of a tariff to protect tin. It was based on the presumption that vast deposits of that mineral existed in the United States, which could profitably be developed if American labourers were not compelled to compete with those employed in the tin mines of Wales. The tariff was pictured as being of more benefit to the labouring man than to his employer, and on this ground the labour element supported the Republican ticket. Some of the rates in the resulting McKinley bill of 1890 were simply prohibitive and defeated the prime purpose of the tariff as a means of collecting duties on imports.

The victory for the McKinley high-tariff policy no less than the impossibility that the Democrats could rally on a free-trade platform showed how thoroughly committed the National Government was to looking after the prosperity of invested interests rather than the welfare of the individual. The latter must find indirect aid through his employer. It would inevitably follow that the employers would be made bolder in demanding government assistance or in defying attempts of government to regulate

them. This is proved by the fate of the Anti-Trust law of 1889, which lay in a state of desuetude through both Republican and Democratic administrations until called into activity in the Northern Securities Company case in 1904. The people are losing hope that either party can ever fulfil its promises in this matter.

Another result of the apparent attachment of both parties to a protective policy was a growing suspicion among the people that the Government was conducted for the benefit of capitalists, and not for individual welfare. To extend still further the paternal hand to industries, the McKinley bill introduced a system of giving bounties to certain commodities according to the amount produced. Yet a high tariff has been endured by the people with remarkable patience. Even when manufacturers have had the additional benefit of bounties and have closed the relief valve of reciprocity treaties, the people have not resisted. The cupidity of the producers must not bear the entire blame for the protective burden. The people grew accustomed to heavy taxation during the Civil War. The tariff, as an indirect tax, is the least evident means of raising public money. The labourers have been taught by some severe lessons that employers easily find an excuse in a reduction of the tariff rates to close their factories and throw them out of employment. The welfare of both employer and employee is made to turn upon the maintenance of a protective tariff. Added to these causes is the propensity of the average American to "let well enough alone."

Alaska was the first case of annexing a distant region whose inhabitants would be for years unfitted for self-government. It formed the real beginning of the modern colonial policy of the United States, although not appreciated at the time. The partition of Samoa, in 1889, between Germany and the United States with the consent of England marked the introduction of the Republic to the council table of nations paramountly interested in the Pacific. Neither was this properly understood at the time. The intense regard which the people of the United States manifested toward the welfare of the uncivilised people of that distant group showed that the guardianship of the negro was presumably ended, and that the national heart sought for new wards. Perhaps the one was a natural result of the other. Nations as well as individuals feel the call of a "mission" in life. The incident also demonstrated the more material fact that American capital was no longer satisfied with domestic investments, but was adventuring into foreign lands and demanding national protection. This was further illustrated in 1892 when the Americans in the Hawaiian Islands raised an insurrection against native authority and asked for annexation to the United States. It was the result of seventy years of influence exerted by the American trader and the American missionary in the islands.

The American people, under physical conditions unprecedented in history and unlikely to be repeated unless another New World be found, had come to be so happy and prosperous that they wished other

people, regardless of colour or race, to be equally free and happy. To secure this end they were even willing to meddle with the domestic affairs of another nation, under the guise of "interposition," if circumstances demanded. The Cuban insurrection of 1868 had been allowed to run its sad course, but conditions had changed before the insurrection of 1895. The volume of Cuban trade had doubled in five years. Millions of American dollars had been invested in Cuban mines, plantations, and warehouses, which bade fair to be lost in the desolating policy inaugurated by Spain to reduce the Cubans to subjection. The Cuban republic had also floated bonds in America, which would become valueless in the event of reconquest by Spain. The plan of "concentrating" the Cubans within certain lines to starve or submit aroused the compassion of the American people. It was said that more than a quarter of a million Cubans had perished by the system. Public sentiment toward the Cubans was much akin to that felt toward the bondmen by the old-time Abolitionists. Capitalists and people were a unit in supporting President McKinley's efforts to secure a milder means of subjugation. Whatever soothing influence the apparent compliance of Spain might have exerted upon the United States was dissipated in one night in February, 1898, by the destruction of a United States man-of-war, the *Maine*, on a friendly visit to the harbour of Havana. Investigators from the United States reported that the explosion was caused by a submarine mine, and the public placed the responsibility upon Spain for

this dastardly violation of the rules of hospitality. Spanish experts were equally insistent that the explosion came from within the vessel, and Spain consequently disclaimed all responsibility. A later conjecture placed the blame upon some radical Cuban revolutionist, who hoped in this way to secure the intervention of the United States.

The effect was electric. War was inevitable. One of those war crazes not unknown to previous history swept over the people. The century of peace policy of the Republic vanished in the twinkling of an eye. The recent project for international arbitration was forgotten. The danger that European nations might combine to save Spain and preserve the balance of geographical power in the Western Hemisphere was unheeded. It was vain to argue that the Cubans had not showed any capacity for self-government and were not prepared by heredity. The arguments and protests of the few "peace-at-any-price" men were scarcely audible in the universal clamour for war to avenge the *Maine*, free the Cuban, and drive the Spaniard from his last foothold on the New World which he had discovered.

As in the war with Mexico, the American arms easily prevailed over an inferior enemy. Spain proved totally unprepared for war. Three months and one day were required to subdue the Spanish arms in both hemispheres and bring a request for terms of peace. The United States demanded a full relinquishment of all Spanish title to Cuba and a gift of the island of Porto Rico and other possessions

held in the West Indies, as well as an island to be selected from the Ladrone group of the Pacific, in lieu of a money indemnity for losses sustained in the war. No demand was made for the Philippines, one harbour and city of which had been occupied by the Americans during the progress of hostilities. But a sudden sentiment for the annexation of the archipelago manifested itself among the people of the United States. The inherited land hunger asserted itself. Men who a day before did not know of the existence of the Philippines and who had been life-long supporters of Washington's policy of American isolation suddenly became eager for an enlarged America. "If we do not take it another power will," was brought out and proved as effective as in the case of the Floridas, Texas, or California. Hence the American commissioners were instructed by President McKinley to follow the "one plain path of duty—the acceptance of the archipelago." This path of compulsion, so far as the Spaniard was concerned, was smoothed for his feet by the payment of $20,000,000, following the precedent of the war with Mexico.

Although many Americans fully appreciated the demand for new markets for American goods and new opportunities for American investments and ridiculed all this sentimental buncombe about the "plain duty" of the nation to keep what it had won in war, the people at large were sincerely honest in "accepting" their share of the white man's burden which the mother country, England, had been quietly assuming for many years. The policy was

put to the test in the presidential election of 1900 and won an unquestioned victory. For ultimate good or evil, the Republic was committed to the new policy of holding colonies. After all, the change was chiefly a matter of geography. The people of the North-west Territory and of later territorial divisions were held under a governor, judges, and a direct control of the National Executive until such time as they were ready for the first step in self-government. This was the system adopted for the American colonies. But the Territories occupied a contiguous territory into which Americans would migrate by the law of westward movement. The island colonies offered no such immediate prospect. The colonial status of the new possessions was established by a decision of the Supreme Court that they were not a part of the United States to which the provisions of the Constitution must be applied, but that they had simply been acquired by the action of the treaty-making powers. They may be incorporated by action of Congress, but until that is done they are colonies.

Fortunately the decision was not wholly partisan. Five of the justices took the position just described. They claimed that large concessions should be made and large latitude given for a time in governing the colonies in order that "ultimately our own theories may be carried out and the blessings of a free government under the Constitution be extended to them." Four members of the Court thought such a decision assumed that the Constitution created a government empowered to acquire territories

throughout the world, and to govern them by different rules than those obtaining in the original States and Territories. They held that the decision would tend to substitute for the present system of republican government a system of domination over distant provinces in the exercise of unrestricted power. These differing opinions summed up the pending political issues on the "expansion" question.

The islands wrested from Spain were not the only territorial fruits of the war. The necessity for a base of operations in the Pacific was responsible for a joint resolution which easily passed Congress in the midst of the war, annexing the Pacific group of islands formerly known as the Sandwich Islands, but now called Hawaii. Texas was the precedent for the manner of making the transfer. This ended a political dispute in America extending over several years, during which the Democratic administration refused annexation and the Republican party favoured it. Parties had completely reversed on this question since Jefferson instituted the territorial-expansion principle. That the new policy was not to be imperialistic in the sense of holding colonies permanently without any self-government was disproved by the act of April, 1900, which granted to Hawaii all the privileges of the Constitution, made the people citizens, and gave to them a representation in Congress.

The tacit promise made to Cuba that the intervention was intended for her ultimate independence and the self-denying resolution of Congress when declaring war were to a large extent observed in

1902, when the Cuban republic was established and the American troops withdrawn. The protectorate established over the island by Congress at that time is the only thing which stands between her and complete freedom. About the same time the long-considered project of an Isthmian Canal was brought to a head. The journey of fourteen thousand miles made by an American war-ship around Cape Horn from California to the scene of action brought a demand for a canal across the Isthmus to unite the waters of the Atlantic with those of the Pacific. The same cry had been heard following the Civil War, but a remarkable change of opinion concerning the details of its construction had occurred. "America for Americans" now demanded that the canal should be built by the American Government and placed wholly under American control. The old Clayton-Bulwer partnership with England was dissolved and the neutrality of the proposed canal guaranteed upon the plan governing the operation of the Suez Canal.

By creating fortunes which demanded a field for investments and by instilling national confidence through manifest resources, the industrial era contributed toward this great national awakening which marked the close of the century. It is frequently alluded to as "the expansion period," or as the advent of a new "world power." This would seem to imply that the United States had been previously isolated from contact with the powers of the world or had made no previous territorial growth. On the contrary, a succession of territorial additions had

been made to the original domain at intervals of about twenty years. But the expansion near the close of the century extended over territory not contiguous to that already held and comprehended distant islands instead of continental possessions. So natural had seemed the prior expansions that the annexation of these remote islands seemed forced and as if the ambition to become an empire was leaning to the inauguration of an imperialistic policy.

Although never completely isolated, as proved by the Monroe doctrine and other incidents, the United States had always come in contact with European powers on matters purely American and not connected with the Old World. She had never waged a war with a European power except England. More than three-quarters of a century had elapsed after the last war with that nation before the opening of hostilities with Spain. Because of this war of 1898 and because she now was concerned in possessions both in the Gulf and the Pacific, the United States was said to have assumed the position of a world power.

CHAPTER XVIII

PRESENT ASPECTS OF THE REPUBLIC

IN case of disputes between the States and the Union, "each party," said Jefferson in the Kentucky resolutions, "has an equal right to judge for itself." The State Legislature has long since ceased to be thought of as a protector of the individual or the State against an unconstitutional act of the Central Government. The Supreme Court is now accepted as the arbiter. Yet this function is only secondary. Primarily its purpose is to secure justice to all men. Incidental to this purpose, it protects the individual from unjust legislation both on the part of State and Union. The plan so frequently advocated by the founders of the Republic that the people be assembled in convention for referendum in case of unconstitutional use of power has been abandoned as impracticable. So firmly was the prerogative of the Federal court established during the war that its verdict concerning the unconstitutionality of either State or Federal statute has never met with serious opposition. In this particular, the court is a novelty in the practice of nations.

The death of Taney, in 1863, and the appointment of Chase, of Ohio, to be his successor, changed the political complexion of the head of the court. A few contemporary changes gave the Republican party a majority of the justices and returned the court to the path of centralisation it had followed in the time of John Marshall. The party whose ascendency had been due largely to its opposition to a decision of the court now had possession of it. Since that change, its decisions as a whole have favoured centralisation and the new order of things. By the shiftings of party control of the National Government, it has been possible to make appointment of justices from both parties, thereby preventing a strong bias toward either. The justices have been able frequently, since sectional discord abated, to rise superior to partisan decisions. Each instance of this kind has tended to renew the confidence of the people in the court. Sectional issues no longer face it. The relations of the Union to the States seem to be permanently established and the people are willing to let them so remain. There is need of neither a Marshall nor a Taney. Controversies between the two sovereignties have been replaced by disputes between social classes, between corporations, between invested interests and the people, and especially between employer and employee.

Three dangers seem to menace the reverence with which the court is now regarded. Its decisions may strengthen the Federal Government until power becomes a peril. The process of confederating the States may grow into absorption or even annihila-

tion. This is most unlikely so long as local taxation and local expenditure remain in the hands of the local government. Another menace to the court lies in the influence which might be used on its members by commercial interests. The lobby has cost the Legislative function of government the respect which it once held among the people. It is rapidly undermining the popular confidence given to the Executive. The people can forgive a political bias in the national judiciary; they cannot see commercial or class favouritism without losing confidence in the most conservative branch of the Government. A third danger arises from the unusual and increasing use made of the judiciary, both State and Federal, in the modern warfare between employer and employee. The courts were designed originally to secure justice for individuals and not to further the interests of any kind of combination. It is easy for each party to the contention to think that it is only demanding "justice." It is equally difficult for both to be satisfied that the court is unbiassed. Thus use leads to familiarity and familiarity grows into contempt.

So firmly established is the custom of allowing the Supreme Court to rectify errors of constitutionality in legislation, that objections of this kind are rarely heard in congressional debates. In connection with the retention of the Philippine Islands, pleas were made for the Constitution as our fathers had interpreted it and for a government such as they established. Although none could deny that changes had been made, the appeals fell upon deaf ears.

This was true even when they emanated from a venerable member of the Senate and a member of the party in power. The United States of the twentieth century is not that of the eighteenth nor even of the nineteenth. It is different geographically, socially, and economically. Neither is it the same politically. New precedents, new ideals, new ambitions, and a horizon of nationality instead of provincialism have produced a new people. The revolution which has been going on silently will be marked in the future as equally important with that which secured Independence. In both parties and people the criterion is not what our constitutional limitations will permit us to do, but what is best to do for the common benefit.

Conditions change with the passing days in any growing body. New problems arise, new ideals are formed, and new precedents established. A written Constitution, inelastic and incapable of change, would be fatal to growth. Amendment is a legitimate means of adjustment, as set forth in the Constitution. But the majority necessary to frame and adopt amendments is so difficult to obtain, and the time required for the action is so long that the Constitution of the United States has been amended only in four particulars in more than a century. The first ten additions are really a part of the document, intended to supply omissions. The last three were caused by the transformation of the negro from a slave to a man. The eleventh and twelfth were framed to meet emergencies as they arose. Of the fifteen hundred changes proposed to be made, only

fifteen have been adopted. Another way in which the Constitution may be changed is by the right of revolution through the sword. This has been attempted but once. Growth may also be provided for by interpretation of the written language. This method has been most frequently employed in the United States. It is the method of common sense. It admits that changes of opinion are likely. It forestalls the charge of inconsistency. Gouverneur Morris in the formative days saw that human nature lies beneath all written forms of government, although objection may be made to his estimate of the motives of public officials. He said:

"But after all what does it signify that men should have a written Constitution containing unequivocal provisions and limitations? . . . The idea of binding legislation is puerile. Having sworn to execute the powers granted, according to their true intent and meaning, they will, when they feel a desire to go farther, avoid the shame if not the guilt of perjury, by swearing the true intent and meaning to be according to their comprehension, that which suits their purpose."

At the present day, new national functions are assumed with ease. It is no longer necessary to trace back the tendencies toward new action, "from precedent to precedent slowly winding down." A thing needs to be done, and it is done. The most striking illustration of this change was the Federal assumption of the task of irrigating the arid lands in the West in 1902. The arable public lands had been rapidly exhausted by the Homestead act and by the

prodigal land grants for various purposes. The impulse to migrate to the West, which had carried the people across the continent, could not be stopped until it had drawn them into the semi-arid and even arid regions bordering on the Rocky Mountains. Lands were entered, homes established, and even cities were founded in parts impossible of cultivation except in an occasional year when the rain belt shifted slightly to the west.

The census of 1890 showed a remarkable expansion of the people over the dry portions of Kansas, Nebraska, South Dakota, and Colorado. The front line of population had swept over them and had engulfed the "island" of people in central Colorado, extending the American frontier almost to Utah. The counter-wave of migration had advanced from California into Nevada and from Oregon and Washington into Idaho, until the two almost met. The national domain was well-nigh completely settled. But the census of 1900 showed a reaction. To the astonishment of all, the American frontier had receded in both directions. For the first time in the history of his conquest of the continent, man had retreated before nature. The hopeless attempt to cultivate the arid districts on the eastern side of the mountains and the diminishing returns from the silver mines on the western side had caused the recession.

Irrigation as a corrective agency had been employed on a small scale in various States since its introduction by the Mormons in Utah. The supply of water being in most cases inadequate to the de-

mand, State legislation was necessary to keep landholders on the upper parts of a stream from diverting more than their share of the flow. The tributaries of the Missouri, for instance, rise in four different States. Complicated legislation and endless litigation among individuals and companies followed. A suit appeared in the Federal Supreme Court brought by the State of Kansas against the State of Colorado to prevent the latter from monopolising the water of the Arkansas River. Because it was an interstate controversy, the Court decided that it had jurisdiction.

The irrigation problem was singularly like that of providing early ways of travel. Individual enterprises were inadequate to meet the demand and the extent of the improvement involved more than one State. Manifestly there was need of another intervention of the interstate agency for the general welfare. A presidential recommendation brought a bill before Congress in 1902 for devoting the proceeds of the public land sales hereafter to the construction of an irrigating system for the lands, regardless of State lines or State domain. Watersheds must be followed. It was a new kind of internal improvement, inaugurated in the mature years of the Republic after all natural obstacles to the free use of the continent had apparently been removed. It marked as distinct a departure as the first grant for constructing a turn-pike, for digging a canal, for dredging a river, or for building a railroad. But it appeared under a broader national horizon than its predecessors encountered. Neither

political party in the platforms of 1900 dared omit a favourable mention of this project.

The objections heard in Congress were grounded almost entirely upon the injustice the measure would work on the present occupants of the lands, as well as upon the extravagant expenditure the enterprise would demand. A speaker or two mentioned the attitude "my party" had always taken toward national paternalism, but the words were manifestly a tribute to party tradition rather than a hopeful attempt to defeat the proposed legislation. It is worthy of note that 132 members of the House were present and failed to vote on the measure. It was carried by a vote of 146 to 55. The Senate majority was still larger. Upon the passage of the bill, surveys were at once undertaken to determine the most available situations for reservoirs and flumes to carry out the national plan for reclaiming the arid lands.

No attempt was made to conceal the fact that the Pacific railroads were interested in the measure, or that companies formed to take advantage of it maintained an expensive lobby at Washington. These are attendant evils upon all national or even State benefices. During the year following the passage of the act, more public land was entered than in any one of the twenty years preceding. A total of 16,258,892 acres were sold, yielding $8,795,893 to be devoted to the new irrigation project. The next year the sales decreased more than a million dollars. The Government will now be obliged to condemn and repurchase at an advanced price portions of this

land for its irrigation works. There remain in the possession of the United States Government about a half billion acres of public lands, of which only about one-tenth can be reclaimed by present methods of irrigation. It is estimated that fifty years will be required to bring this portion into contact with an adequate supply of water.

As has been stated, the frontier retreated from its position in 1890, which in some places reached the 107th degree of west longitude, to a north and south line conforming almost entirely with the meridian of 101 west longitude. Between 1790 and 1900 the centre of population moved westward a distance of 519 miles. Its momentum has gradually decreased in recent years with the diminution of the public lands and the disproportionate growth of the cities. While the centre of total population and the centre of white population have moved almost due westward, the latter always to the north of the other, the centre of negro population has constantly moved south-west. The lines of the two races have steadily diverged. No such exodus of blacks to the North took place after the war as was predicted.

The cities are also gradually changing the predilection of the people to follow parallels of latitude in their migration. This habit has been the great barrier to a homogeneous Union. Northern people rarely migrated to the South and the Southern people rarely chose a Northern State in which to reside. Each kept to his side of the line. This is evident in a census taken as late as 1900. Wisconsin and Louisiana occupy about the same relative

position from the Atlantic seaboard. In 1900 there lived in the former State 22,888 people natives of Massachusetts and 192 natives of Georgia. In Louisiana resided 11,800 people born in Georgia and only 181 born in Massachusetts. New York has contributed twenty-six residents to Iowa for every one she gave to Arkansas. South Carolina has sent fifty-seven people to Arkansas for every one to Iowa. Georgia sent more of her sons and daughters to Alabama than to any other State and the next largest number to Texas. New York has contributed most to New Jersey and next to Michigan.

The migration of so many people from New York to New Jersey was undoubtedly caused by the crowded conditions of the city of New York, and its extension over neighbouring territory. The magnetism of city life is not peculiar to New York. The proportion of people moving from Illinois to Iowa in 1880 to those coming from Iowa to Illinois was as one to six. Twenty years later the ratio had fallen to one to three. No doubt the larger part of this return stream found its way to the city of Chicago. The same conditions hold for other States containing large cities. This tendency has aided in diminishing the westward momentum. In 1880, New York had furnished to Colorado seventy-five persons for each one she received in return. In 1900, the proportion was only twenty-two to one.

The increase of urban population, due to the exhaustion of the Western lands and to the concentration of manufacturing enterprises, has produced new

problems in municipal government, sanitation, and good order. In 1790, the urban population was 3.4 per cent. of the whole number of people. In 1900, it was 33.1 per cent. Only six cities in the United States in 1790 contained more than eight thousand inhabitants. By 1900, there were 545. The demand for labourers in the manufacturing plants of the cities has concentrated the mass of foreign immigrants in them. An exception is found in the Scandinavians, who became agriculturists in the Northwest. Seven States contain more than one-fourth the total number of foreign-born inhabitants of the Union. Of these, Massachusetts, Rhode Island, Connecticut, and New York owe their predominance of foreigners to manufactures, and Minnesota, North Dakota, and Montana to agriculture.

Of 160 cities in the United States containing more than twenty-five thousand people, ninety-one have more foreign born than native inhabitants. Twenty of these cities are located in Massachusetts, and in only one of them, Haverhill, do the native Americans predominate. Out of every one hundred people in Fall River, Massachusetts, only fourteen were born in the United States. The New England stock of olden times, the chosen people, the leaders in the Revolution and in American letters, bids fair to be overwhelmed by foreign blood. The South Atlantic States, into which negroes, indented servants, French, and Germans were introduced, have now the highest per cent. of native Americans to be found on the continent. The great cities of New York and Chicago have about an equal percentage

of foreign born, averaging three to every native resident.

The proportion of those coming from different nationalities to reside in America has not changed much in a half century. In 1850, the largest number of immigrants had come from the following countries in a decreasing ratio: Ireland, Germany, England, Canada, Scotland, France, and Wales. In 1900, the order was: Germany, Ireland, England, Canada, Sweden, Italy, and Russia. In addition to the last two races, three others have made their appearance in recent times. In 1850, the total number of immigrants coming from Poland, Hungary, and Bohemia combined formed less than one-half of one per cent. of the total number. In 1900, they constituted eighteen per cent.

Statistics show that the relative proportions between native and foreign born have not changed much in recent years, notwithstanding the enormous number of immigrants entering America. Expressed in millions the ratio of native to foreign in 1850 was 20 to 2; in 1860, 27 to 4; in 1870, 32 to 5; in 1880, 43 to 6; in 1890, 53 to 9; and in 1900, 60 to 10. This shows that for the last forty years there have been about six or seven Americans to one foreigner in the United States. Notwithstanding this showing, much apprehension has been felt over the foreign immigration. Numerous efforts have been made to find a remedy in legislation, in movements for social amelioration, in education, and in spasmodic attempts at secret organisation. By common consent, the Federal Government has assumed con-

trol of the admission and naturalisation of aliens, leaving to the States their local regulation. Congress has passed laws to bar those physically unfit, labourers under contract, criminals, paupers, and kindred undesirable classes. Hundreds have been deported for these reasons, but thousands have come in their stead. Complete prohibition has been declared against only one race—the Chinese. This was due chiefly to their habits, but also to political reasons connected with the Pacific coast. Yet as citizens they are infinitely easier to control and less menacing to the future than those of certain other races freely admitted. The Supreme Court has sustained the power of the United States to place bars before its doors and to maintain them even against the inhabitants of its own colonies. A century has wrought marvellous changes in the land designed to be an asylum for the oppressed of all nations.

Critics may find an inconsistency in a policy which allows those safely in the continental fold to determine who shall henceforth be admitted; which reaches out from that secure base and peacefully assimilates distant people whether willing or unwilling; which annexes lands and then keeps certain of the inhabitants from entering the mother country. These objectors cry out against this imitation of European "imperialism." They lament the burden of taxation necessary to support the increased army and navy required to maintain the new station. They begrudge the increase in the cost of the navy from $30,000,000 before the recent war to

$78,000,000 after it had brought about the new era. The cost of the army increased during the same time from $23,000,000 to $115,000,000. To meet these enlarged expenditures, the appropriations for internal improvements and other beneficent purposes except pensions had to be cut down. The critics point to the $306,000,000 raised by special taxes in 1901 for the purpose of paying a war debt. Yet they lose sight of the fact that 232,224 people subscribed $1,400,000,000 to a popular loan for that purpose. The people supported the policy of the Administration.

There seems to be no more likelihood of an "anti-expansion" or an "anti-imperialism" policy winning in the future than there has been in the past. The entire tendency of the times runs in the contrary direction. "A strenuous life" has captivated the popular fancy. Nearly half a century has elapsed since the first inter-collegiate boat race in America. Athletics have become a craze in the schools and among the people. Gymnasiums are to be found everywhere. "Home exercisers" find a ready sale, and advertisements of various physical-culture systems fill the magazines. No fad is too foolish to find a following. Health foods and drinks abound even more than they did in the mid-century reforms. An outdoor life and country residence have become desirable. Parks are laid out on an extended scale and country clubs monopolise the vacant spaces adjacent to cities. Working days are shortened and holidays increased in number in order that workers may be free to do something or to go somewhere.

Repose and leisure have disappeared simultaneously. "Hustle" and words of kindred meaning have been added to the national slang vocabulary. This common ground of activity has no doubt aided in bringing about the recent feeling of good-will between England and the United States.

An intense desire to know is coupled with the ambition to do in the present temper of the people. Education has become a national hobby. Illiteracy is little short of a crime. There are more pupils in school in the United States than there were inhabitants in 1830. Nearly five hundred universities and colleges furnish a higher training. Twenty million dollars are spent annually for education, nearly one-fourth of which comes from Federal and State taxation. People who are not represented in the schools cheerfully consent to tax themselves for their support, although taxation without representation was a cause of the Revolution. The private benefactions to education in some years reach ten million dollars. Even the Indian schools, under Federal control, contain more than twenty thousand pupils. Home education is made possible by scores of reading circles, schools of correspondence, and lecture systems. Scarcely an art or craft can be imagined which is not taught by correspondence. Libraries are founded in every centre of population and circulating libraries sent to the outlying districts. The chances are that not one work of all the current ephemeral literature will live. Thoroughness is necessarily sacrificed to haste and the criterion of scholarship is lost in numbers. But the movement

represents a laudable purpose which may reach true culture in some kind of a reaction in the future. In the meantime general intelligence among the people is being disseminated.

Progress is demanded in everything. Novelties, absurdities, and even heresies find a following in education, religion, art, and literature if they are supposed to indicate progress. Realism is driven out of literature by romanticism. Rapid movement is demanded in the novel and in the drama. Fiction has become a vehicle for conveying information and for aiding various reforms. The historical novel known to our fathers has come to life again with scenes and personages purely American. The study of the history of the United States has been given a larger place in the school curriculum and has been fostered by numerous patriotic societies founded to perpetuate the memories of its events and makers.

The measures taken by the Federal Government looking to the well-being of the people are constantly being enlarged. Free delivery of mail to residents of the country was inaugurated in 1897, and has been extended over highways in all portions of the domain where population warrants. Experiments in the cultivation of the soil, in the growth of timber, and the raising of fruits have been conducted on an elaborate scale in all parts of the domain. War has been waged upon destructive insects, and various foreign products introduced to American cultivation at public expense. The signal service, which grew out of the telegraph service of the Civil War, has been enlarged into a system for

making meteorological observations and predicting the state of the weather. This information it sends broadcast over the Union for the public benefit. Experimental farms and experiment stations have been established to aid agriculture and fruit growing; geological, topographical, and coast surveys have been made; and various hospitals and laboratories established and supported at public expense. The distribution of free books and seeds has grown to enormous proportions. Appropriations are made almost without question for national exhibitions; for the entertainment of distinguished foreign guests; for the relief of persons and entire communities; and even for the alleviation of suffering in foreign lands. Actions like these are considered entirely legitimate, although unauthorised specifically in the Constitution. They seem to belong rather to a consolidated than a federated republic. They are precisely what time has made out of a federation of independent States.

With other changes, it is not surprising that American ideals have undergone an alteration. America is not what many hoped it would be. Whatever social equality was construed into the Declaration of Independence by enthusiasts and reformers has been abandoned. It is now applied to equality of political rights, the only kind which self-government is authorised to promise. Freedom of speech has been curtailed to freedom of sensible and unobjectionable speech. A disinterested patriotism as an impulse has lost much of the confidence formerly placed in it. That men naturally place

country above their own interests is a maxim of former days which is still proclaimed, but few believe or demonstrate by their actions. The individual was once considered apart from the mass. That is no longer possible. Government was once said to proceed from the consent of all the governed. Now we are satisfied to say it proceeds from a majority of the governed, and are even willing to coerce the minority into submission. America was once said to be a refuge for the poor of all nations; but self-protection has placed many barriers before the doors. American simplicity both at home and abroad was once thought to be a special virtue. At present the ambition is to make as good a showing as your neighbour in order not to be conspicuous or an object of ridicule. Large wealth was once considered as indicative of an aristocracy and prophetic of a nobility. Now it is acknowledged to be a most desirable adjunct to a useful and happy life. Government was formerly declared to be instituted in America for the direct benefit of the individual. It now seeks his benefit indirectly through fostering the interests which furnish him with a livelihood. In other words, it is difficult to create a new order of mankind even by placing man in a new environment unless the old inheritance be blotted out.

Parties and statesmen have always been agreed that the management of the foreign affairs of the United States belonged exclusively to the Union. This was assumed indisputably in the Constitution. No serious variance on this score ever occurred between the two powers. The subordination of the

States, therefore, added no strength to the foreign potency of the nation; but the rebirth of nationality among the people, aided by a foreign war and the adoption of a colonial system, changed the attitude of the Republic toward other nations. The Monroe doctrine distinctly declared the intention of the United States not to interfere with the conduct of European affairs. Yet American troops mingled with those of Japan, Great Britain, and Russia in the siege of Pekin during the "Boxer" rebellion of 1900. Like the stork in the fable, caught among the crows in the farmer's corn, the United States disclaimed any intention of robbery.

When James Monroe in 1823 voiced the sentiment of American isolation for self-protection, no one could foresee that Europe would become so firmly intrenched in the South American republics that every effort on the part of the United States to overcome her influence and divert trade to the North would prove abortive. James G. Blaine gave the best years of his life to this object without avail. No one could foresee that the Yankees would enter the Pacific in a kind of commercial retaliation.

This was precisely the situation of affairs in China in 1900. American traders and American missionaries had gone into the newly opened fields to reap the harvest. American troops must follow to rescue them. So manifest were the ambitions of the other powers to secure a slice of territory in the senile empire that the United States felt called upon to say that her trade treaties with China would not allow her to consider any ports closed to her trade or

to recognise any "spheres of influence," into which she might not freely enter for commerce. To this rather presumptuous stand for "an open door" in China, the United States claimed to have received the assent of her fellow-labourers in the task of forcibly converting the heathen.

The United States explained that Monroe meant non-interference with political rights in European affairs. The intervention in China was for the protection of trade and religion. That no intention of interfering with the political rights of China was entertained by America was best proved by her opposition to partition or spheres of influence and by insistence that terms of peace should be proposed which China would not find impossible to fulfil. The nations of Europe complained, as they continue to do, that the Monroe doctrine admitted of too many interpretations; that it had never been defined; and that it was extended to cover any situation which its followers might wish. It arose to meet them in most unexpected quarters. Like the Constitution, it seemed to them to be written on India-rubber. In 1895, the Monroe doctrine had been construed to cover a boundary dispute between England and a South American republic. "No European power or combination of European powers shall forcibly deprive an American state of the right and power of self-government and of shaping for itself its own political fortunes and destinies," said the Secretary of State under President Cleveland. On this assumption Cleveland successfully demanded arbitration of the dispute. In vain Europe argued

that the Monroe doctrine would be applicable only in case another Holy Alliance should threaten an American republic. The doctrine is not a law, replied the Americans; it is a principle. It is not to be confined to a specific case, but it is applicable to any condition which may threaten American affairs in any part of the world. It is the doctrine of paramount American interests. The prediction may be made safely that the doctrine is as unlikely to be defined or circumscribed by American choice as that it will be admitted by a strong European nation who has a desire at any time really to resist it.

Because of their respective evolutions, State and Union are peculiarly mingled in the affections of the American people. Intense pride of birth in a State is not felt to be incompatible with intense pride of birth in the Union. "To be an American first and a Georgian next," was the dictum of one of the brightest and most lamented lights of the newer South. The people of the United States have long since ceased to think of the United States as anything except a unit. Church rituals and official announcements still use the phrase "these United States," but the people think "the United States." Rarely does the historical significance of the title "the *United* States" occur to the mind of the user. Even the name is rapidly being supplemented in common usage by the word "America." A monopoly of this name is claimed not only because of predominance, but also because the people of the United States have no derivative name as have the Canadians, the Mexicans, the Brazilians, and

the Chilians. To apply to America the term "the States," as is the custom in foreign lands, is to ignore both past history and present tendency. It is to think of units instead of a whole. Historically and prophetically the United States as a federation of States have ceased to exist and the United States as a centralised Republic has taken the place.

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